

PUBLIC EMPLOYMENT RELATIONS BOARD

October 15, 1987

**1986-1987 Report
To The Legislature**



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Willard A. Shank, Member
Betty Cordoba, Member

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MESSAGE FROM THE CHAIRPERSON

The past year has been a dynamic and challenging time for PERB. We underwent a change of Board Members. The effectiveness of this Board in carrying out its responsibilities for the improvement of public employee-employer relations and the administration of the three public sector collective bargaining laws depends on the quality of those chosen to serve as Board Members — Marty Morgenstern and Nancy Burt — who served the people of California with distinction. This year also marks the beginning of the terms of two new Board Members — Willard Shank and Betty Cordoba — who promise to continue the PERB tradition of providing leadership by issuance of timely, well-reasoned decisions.

This Board's tenacity and fiber were tested. There were legislative bills proposed to make collective bargaining optional, eliminate state mandate reimbursements for collective bargaining, and a bill to set a statutory timeline for case processing. These bills were not passed by the Legislature.

The Board had opportunities this year to improve its effectiveness and make a contribution to the labor relations community. The objectives and associated activities include but are not limited to:

- the factfinding survey
- the factfinders manual
- contract reference pilot system
- publication of a public information pamphlet on representational matters
- reduction in median case turnaround time from 483 days in 1985-86 to 418 days in 1986-87
- provided training to more than 130 people on PERB unfair practice procedures (September 1986).

Without the assistance and support of the parties and the staff, the Board would not have had such a rewarding year.

Deborah M. Hesse



Deborah M. Hesse
Board Chairperson

Deborah M. Hesse began her five year term as member and chairperson of the Public Employment Relations Board in January, 1984. Prior to her appointment to the Board, Ms. Hesse had served as Deputy Director of the State Department of Personnel Administration (DPA) since January, 1983. From 1979 until joining DPA, Ms. Hesse was an Affirmative Action Officer for the State Department of Justice. Ms. Hesse worked for two years as a Management Analyst with the Secretary of State's office.

Previously, she was Assistant to the Director of the Governor's Office of Employee Relations from 1976 to 1977. She also spent part of 1977 in the Department of Consumer Affairs and Investigative Services.

Ms. Hesse holds a Bachelor's Degree in Social Work and a Master's Degree in Public Administration, both from the California State University at Sacramento. Her term expires January 1, 1989.

BOARD MEMBERS

Stephen Porter was appointed to the Public Employment Relations Board in April, 1985. Prior to this, he worked for the State Department of Justice for 22 years as a Deputy Attorney General in the Administrative Law Section and as the Senior Assistant Attorney General in charge statewide of the Public Administrative Law Section. Later he served as Assistant Chief of the Civil Law Division. Before joining the Department of Justice, he was a Deputy District Attorney in Contra Costa County serving as a criminal prosecutor. Mr. Porter did his undergraduate work at the University of California, Berkeley and received his law degree from the Hastings College of Law in San Francisco. His term expires January 1, 1990.



**Stephen Porter
Board Member**



**William A. Craib
Board Member**

William A. (Bill) Craib was appointed as a member of the Public Employment Relations Board in February, 1986. Mr. Craib retired from the California Department of Transportation in 1981, after serving as an engineer since 1958. For the 1984-85 year, he was appointed Honorary Mayor of his hometown, Orangevale, CA. From 1980 to 1983, he served as National President for the 500,000 member Assembly of Governmental Employees. Mr. Craib was the President of the California State Employees' Association (CSEA) from 1976 to 1979. Mr. Craib also served as an elected public official and Board Member of the Westborough County Water District. His term as a member of the Public Employment Relations Board expires January 1, 1991.

BOARD MEMBERS



**Willard A. Shank
Board Member**

Willard A. Shank was appointed as a member of the Public Employment Relations Board in April, 1987. He served as the Adjutant General of the California National Guard from 1983 to February, 1987. Member Shank was the Assistant Adjutant General of the California National Guard from 1975-83. He joined the California Department of Justice as a Deputy Attorney General in 1950. He also served as the Assistant Attorney General from 1977-83. Mr. Shank is a member of the State Bar Association. He received his Bachelor of Law Degree from the University of California, Berkeley in 1946 and his juris doctorate from the same University four years later. His term expires January 1, 1992.

Betty Cordoba was appointed to the Public Employment Relations Board in May, 1987. Mrs. Cordoba was an elementary school teacher for the L.A. Unified School District from 1949 until her retirement in 1983. She was appointed to the National Advisory Council on Women's Educational Programs by President Ronald Reagan in 1982 and served as chairperson from 1982-83. She is a former member and officer of Professional Educators of L.A. (PELA) and Professional Educators Group, and a former member of the National Association of Professional Educators. Mrs. Cordoba also served on the Certificated Employee Council of the L.A. Unified School District for PELA as well as being a demonstration, training and mentor teacher and an in-service class instructor. She received her Bachelor's Degree in education from the University of Southern California in 1949. Mrs. Cordoba's term expires January 1, 1988.



**Betty Cordoba
Board Member**

Purposes and Duties of PERB

PURPOSE

The Public Employment Relations Board (PERB) was created by the provisions of the Educational Employment Relations Act (EERA) of 1976 (Government Code section 3540, et seq.). This statute was authored by State Senator Albert S. Rodda, and established collective bargaining in California's public schools. Collective bargaining was established in state government by the State Employer-Employee Relations Act of 1978, now known as the Ralph C. Dills Act (Government Code section 3512, et seq.). In 1979, coverage was extended to higher education under the provisions of the Higher Education Employer-Employee Relations Act (HEERA) authored by Assemblyman Howard Berman (Government Code section 3560, et seq.).

PERB is the quasi-judicial agency established to administer these statutes and adjudicate disputes which arise under them. The Board is empowered to: (1) conduct secret ballot elections to determine whether or not employees wish to have an employee organization exclusively represent them at the bargaining table; (2) prevent and remedy unfair practices whether committed by employers or employee organizations; (3) break impasses that may arise at the

bargaining table by establishing procedures to resolve such disputes; (4) ensure that the public receives accurate information and has time to register its opinion regarding negotiations; (5) interpret and protect the rights and responsibilities of employers, employees and employee organizations under the Acts; (6) monitor the financial activities of employee organizations that are not required to report their transactions under federal law; (7) conduct research, perform public education and conduct training programs related to public employer-employee relations.

Approximately 655,751 public sector employees and 1,176 employers are included under the jurisdiction of these three Acts. The majority of these employees (446,706) work for California's public school system from pre-kindergarten through, and including the Community College system (K-14). The remainder of the employees covered are employed by the State of California (120,430) and employees that work for the University of California, the California State University, and the Hastings College of Law (88,615). Municipal, county, and local special district employers and employees are not included. These jurisdictions are covered under the Meyers-Milias-Brown Act.



ORGANIZATION OF PERB

PERB is headquartered in Sacramento with regional offices in Los Angeles, Sacramento and San Francisco. The organizational elements of the Agency consist of the Board, a General Counsel, a Division of Administrative Services, a Division of Administrative Law, and a Division of Representation.

The Board is composed of five members who are appointed by the Governor and subject to confirmation by the State Senate. In addition to the overall responsibility for administering the EERA, the Ralph C. Dills Act and HEERA, the board itself acts as an appellate body to hear challenges to decisions by its agents and Administrative Law Judges.

The Division of Administrative Law houses PERB's Administrative Law Judges (ALJ). The ALJs hold informal settlement conferences on the unfair practice cases. No records are kept on these conferences in an effort to settle disputes. If no agreement is reached, however, another ALJ conducts a formal hearing and maintains a record. The ALJ issues written findings and legal conclusions that are binding on all parties. If a party disagrees with the ALJ's decision, an appeal may be filed with the Board. The Board issues a decision and if the parties still disagree, the case may be appealed to the State Appellate Court. When no appeal is filed with the Board, the ALJ decision becomes final.

Sixty-two Board decisions were issued in the 1986-87 reporting year. Only two were appealed to the State Appellate Court.

In the 1986-87 reporting period, 60 proposed decisions on unfair practice allegations were issued by the ALJs. Thirty-two cases (53.3%) were appealed

to the Board and twenty-eight (46.7%) became final without an appeal being filed.

The General Counsel is the Board's chief legal officer. The General Counsel also oversees the agency's Division of Charge Processing/Litigation, and the Division of Representation.

In litigation, the General Counsel represents the Board when its formal decisions are challenged in court, when attempts are made to enjoin the Board's processes, and when the Board wishes to seek injunctive relief against alleged unfair practices.

In the capacity of Charge Processing, a regional attorney in each regional office is responsible for investigating unfair practice charges to determine whether they reflect a "prima facie" case of unfair practice. After investigation, regional attorneys resolve unfair practice charges by issuing complaints or dismissing charges which have not been withdrawn by the parties.

The Division of Representation has representatives in each regional office which include a Regional Director, Labor Relations Specialist, and support staff. The division is responsible for handling a broad range of representational matters, including bargaining unit configurations, unit modification requests, certification and decertification elections, and elections to approve or rescind organizational security arrangements. The Division of Representation also handles public notice complaints, requests to certify negotiation disputes to mediation and factfinding, and allegations of noncompliance with PERB orders. The Director of Representation oversees these areas.

The Division of Administrative Services oversees the technical and support

services function of the PERB, such as business services, payroll, accounting, mail and duplicating. It is responsible for the day-to-day operations of the Agency and for initiating and conducting research and legislative activity.

This division also initiates training, and arranges and conducts meetings, many of which are held as forums designed to reduce impasses between employers and employees. It maintains liaison with the Legislature and the executive branch control agencies.

PERSONNEL

PERB employs 95 persons throughout the State, including permanent personnel, temporary employees and student assistants.

In keeping with State of California guidelines, PERB maintains an affirmative action policy as a means of achieving equal employment opportunities. This policy has been maintained throughout its existence. PERB's policy prohibits discrimination based on age, race, sex, color, religion, national origin, political affiliation, ancestry, marital status, sexual orientation or disability. As a young agency, PERB believes it is a model in this regard.

PERB continues to maintain and ensure equal employment opportunities for all applicants and employees at all levels in its organization.

PERB ACTIVITIES

Representation

The Public Employment Relations Board is empowered to determine appropriate bargaining units for public sector employees within its jurisdiction who wish to exercise their collective bargaining rights. As of June 30, 1987, there were 2,218 bargaining units within PERB's jurisdiction.

The representation process normally begins when a petition is filed by an employee organization to represent classifications of employees which reflect an internal and occupational community of interest. If only one employee organization petition is filed and the parties agree on the unit description, the employer may either grant voluntary recognition or ask for a representation election. If more than one employee organization is competing for representational rights of the same unit, an election is mandatory.

If either the employer or an employee organization dispute the appropriateness of a unit or the employment status of individuals within the unit, a Board agent convenes a settlement conference to assist the parties in resolving the dispute. The Board has historically stressed voluntary settlements and has consistently and effectively offered the assistance of Board agents to work with the parties toward agreement on unit configurations.

If the dispute cannot be settled voluntarily, a Board agent will conduct a formal investigation and/or hearing and issue a written determination which is appealable to the Board itself. This decision sets forth the appropriate bargaining unit or modification of that unit and is based upon application of statutory unit determination criteria and appropriate case law to the facts obtained in the investigation or hearing.

Once an initial bargaining unit has been established and an exclusive representative has been chosen, another employee organization or group of employees may try to decertify the incumbent representative by filing a decertification petition with PERB. Such a petition is dismissed if filed within 12 months of the date of voluntary recognition by the employer or certification by PERB of the incumbent exclusive representative. The petition is also dismissed if filed when there is a

negotiated agreement or memorandum of understanding in effect. The petition is valid if it is filed during a window period beginning 120 days prior to the expiration of that agreement.

Elections

A primary function of PERB is to conduct representation elections. PERB conducts initial representation elections in all cases in which the employer has not granted voluntary recognition. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent. The choice of "No Representation" appears on the ballot in every election.

In the 86-87 reporting period PERB conducted 57 elections covering approximately 22,200 employees. Sixteen of these elections were to determine which employee organization, if any, would represent the employees of a particular negotiating unit. Of these, 13 elections resulted in the selection of an exclusive representative and three in the selection of "No Representation."

The Board also conducted 21 decertification elections. Of these, 13 resulted in retention of the incumbent organization, and 8 resulted in the selection of another employee organization as the exclusive representative.

Election procedures are contained in PERB regulations (section 32700 at seq). The Board agent or the representative of a party to the election may challenge the voting eligibility of any person who casts a ballot. In addition, parties to the election may file objections to the conduct of the election. Challenged ballots and objections are resolved through procedures detailed in PERB regulations.

A third type of election occurs in order for employees to approve (under the EERA) or rescind (under the EERA and Ralph C. Dills Act) an organizational security or a fair share fee agreement. Organizational security election procedures are similar to those followed in representation elections. Three unit modification elections also conducted by the Board. This type of election occurs in order to settle disputes pertaining to composition of a particular negotiating unit.

EERA Elections

As provided by statute, PERB conducted 16 initial representation elections of which 12 resulted in the selection of an exclusive representative, and 3 in the selection of "No Representation." One election required a run-off. All 21 of the decertification elections conducted by the Board in the 86-87 reporting period were under this Act. As discussed previously, 13 of these elections resulted in retention of the incumbent exclusive representative and 8 resulted in the selection of another employee organization as the exclusive representative. Fifteen public school employers requested the Board conduct organizational security implementation elections. All of these elections resulted in the ratification of the organizational security provisions. Two organizational security rescission elections were also held, both resulting in organizational security provisions being rescinded. Three unit modification elections were conducted in the 86-87 reporting period, resulting in modifications to one certificated negotiating unit and two classified negotiating units.

Ralph C. Dills Act Elections

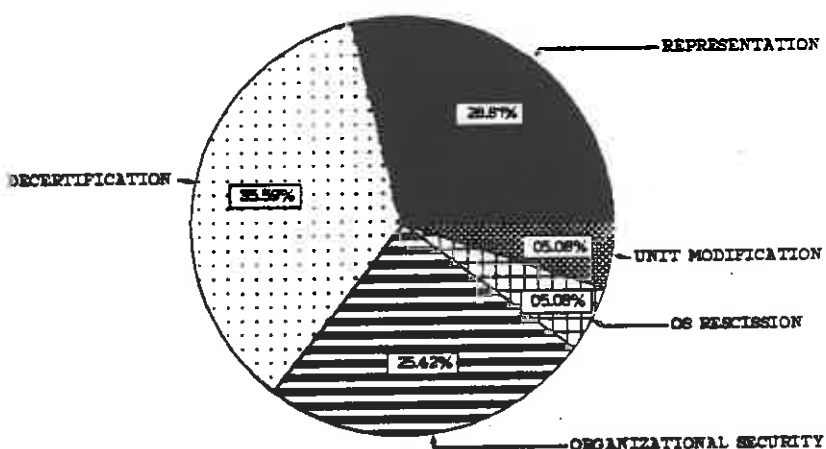
During the 1986-87 reporting period PERB conducted one organizational security rescission election covering approximately 7,544 employees (see Appendix), resulting in a vote to rescind

the existing organizational security (fair share fee) arrangement, and one decertification election in unit 18.

HEERA Elections

One election was conducted in the University of California system to determine which employee organization, if any, would represent the employees of a particular negotiating unit. This election covered approximately 182 employees and resulted in the selection of "No Representation" (see Appendix).

ELECTIONS HELD DURING FISCAL YEAR 1986/87



Impasse Resolution

PERB assists the parties in reaching negotiated agreements through mediation under all three statutes, and then through factfinding under EERA and HEERA, should it be necessary. If the parties are unable to reach an agreement during negotiations, either party may declare an impasse. At that time, a Board agent contacts both parties to determine if they have reached a point in their negotiations where their differences are so substantial or prolonged that further meetings would be futile.

In cases where there is no agreement of the parties in regard to the existence of an impasse, a Board agent seeks information that helps the Board determine if mediation would be appropriate. Once it is determined that an impasse exists, the State Mediation and Conciliation Service (SMCS) is contacted to assign a mediator. Under the direction of Ed Allen, the mediation staff has been very successful in resolving these contract disputes. SMCS Mediators have settled approximately 85 percent of all disputes, resulting in the need for appointment of a factfinding panel in only 15 percent of all impasse cases.

In the event settlement is not reached during mediation, either party (under EERA or HEERA) may request the implementation of factfinding procedures. If the mediator agrees that factfinding is appropriate, PERB provides a list of neutral factfinders from which the parties select an individual to chair the tripartite panel. If the dispute is not settled during factfinding, the panel is required to make findings of fact and recommend terms of settlement. These recommendations are advisory only. Under EERA, the public school employer is required to make the report public within 10 days after its issuance. Under HEERA, the parties are prohibited from making the report public for at least 10 days. Both laws provide that mediation can continue after the factfinding process has been completed.

Financial Statements

The law requires recognized or certified employee organizations covered by EERA and HEERA to file with PERB an annual financial statement of income and expenditures no later than 60 days following the close of the organization's fiscal year. Organizations covered by Ralph C. Dills Act have 90 days to file such a report. Any employee may file a statement alleging noncompliance with this regulatory requirement. Upon receipt of such a filing, PERB agents

investigate the employee allegation in order to determine its accuracy. If necessary, PERB may take action to bring the organization into compliance.

Bargaining Agreements

PERB regulations require that employers file, with PERB regional offices, a copy of agreements or amendments to those agreements (contracts) within 60 days of the date of execution. These contracts are maintained on file for viewing by the Board, employers, employee organizations, employees, the Legislature, and the public.

Advisory Committee

The Advisory Committee to the Public Employment Relations Board was organized in 1980 to assist PERB in the review of its regulations as required by AB 1111. The Advisory Committee consists of over 150 people from throughout California. They represent management, labor, law firms, negotiators, professional consultants, the public and scholars.

Although the regulation revision has been completed, the Advisory Committee continues to assist the Board in its search for creative ways in which its professional staff can cooperate with parties to promote the peaceful resolution of disputes and contribute to greater stability in employer-employee relations. This dialogue has aided PERB in reducing case processing time by such improvements as the substitution of less costly investigations in preparation for formal hearings in certain public notice cases, the stimulation of innovative research projects of value to the parties, and the suggestion and preparation of further regulatory changes.

A member of the Board attends Advisory Committee meetings. This direct participation with the Advisory Committee ensures communication between the Board and its constituents.

UNFAIR PRACTICES

An employer, employee organization, or employee may file a charge with PERB alleging that an employer or employee organization has committed an unfair practice. Examples of unlawful employer conduct would be: coercive questioning of employees regarding their union activity; disciplining or threatening employees for participating in union activities; or promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct would be: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; or failing, as an exclusive representative, to represent bargaining unit members fairly in their collective bargaining relationship with the employer.

A Board agent evaluates the charge and the underlying evidence to determine whether a prima facie case of an unfair practice has been established. A charging party establishes a prima facie case by alleging sufficient facts to permit a reasonable inference that each and every element of a violation exists.

If the Board agent determines that the charge or evidence fails to establish a prima facie case, the Board agent issues a warning letter notifying the charging party of any and all deficiencies. If the charge is neither amended nor withdrawn, the Board agent will dismiss it. The charging party may then appeal the dismissal to the Board itself.

Investigations by regional Board agents have been successful in minimizing the issuance of formal complaints in cases involving spurious charges. This has resulted in a savings of time and resources for PERB and the parties.

Many disputes are settled informally without the assistance of PERB. Six hundred sixty unfair practice charges were filed in fiscal year 1986-87. Of the

cases disposed of during this fiscal year, approximately 49 percent were withdrawn or dismissed at the investigation stage, while 40 percent were withdrawn or dismissed after the complaint was issued, and approximately 11 percent ultimately received ALJ decisions. Approximately 53 percent of the ALJ decisions were appealed to the Board itself.

If the Board agent determines that a charge constitutes a prima facie case, a complaint is issued, and the respondent is given an opportunity to file an answer to the complaint. An ALJ is assigned and calls the parties together for an informal conference. At the informal conference, the contending parties are free to discuss the case in confidence with the ALJ. If a settlement is not accomplished, a formal hearing is scheduled.

At the formal hearing, a different ALJ is assigned to hear the case. The ALJ rules on motions and takes sworn testimony and other evidence which becomes part of a formal record. The ALJ then studies the record, considers the applicable law, and issues a proposed decision.

A proposed ALJ decision applies precedential Board decisions to the facts of a case. In the absence of Board precedent, the ALJ decides the issue(s) by applying other relevant legal principles. Proposed ALJ decisions that are not appealed are binding only upon the parties to the case.

If a party to the case is dissatisfied with a proposed ALJ decision, it may file a statement of exceptions and a supporting brief with the Board. After evaluating the case, the Board may: (1) affirm the decision; (2) modify it in whole or in part; (3) reverse it; or (4) send the matter back to the ALJ to take additional evidence.

An important distinction exists between ALJ decisions that become final and decisions of the Board itself. ALJ decisions may not be cited as precedent in other cases before the Board. Board

decisions are precedential and not only bind the parties to that particular case, but also serve as precedent for similar issues arising in subsequent cases. (See appendix.)

LITIGATION

The Board is represented in litigation by its General Counsel. The litigation responsibilities of the General Counsel include:

- defending final Board unfair practice decisions when aggrieved parties seek review in appellate courts;
- seeking enforcement when a party refuses to comply with a final Board decision or with a subpoena issued by PERB;
- seeking appropriate interim injunctive relief against alleged unfair practices;
- defending the Board against attempts to block its processes, such as attempts to enjoin PERB hearings or elections;
- defending a formal Board unit determination decision when the Board, in response to a petition from a party, agrees that the case is one of special importance and joins in a request for immediate appellate review;
- submitting amicus curiae briefs in cases in which the Board has a special interest or in cases affecting the jurisdiction of the Board.

Litigation Summary

During the 1986-87 fiscal year, PERB participated in 10 new Superior Court, Appellate Court and Supreme Court cases. In addition, the Board received

decisions in 13 of its litigation cases that were filed in previous years. Of these decisions, however, only four involved published, precedential opinions. The others involved summary dispositions.

A number of significant cases are currently pending disposition by the California Supreme Court and the U.S. Supreme Court.

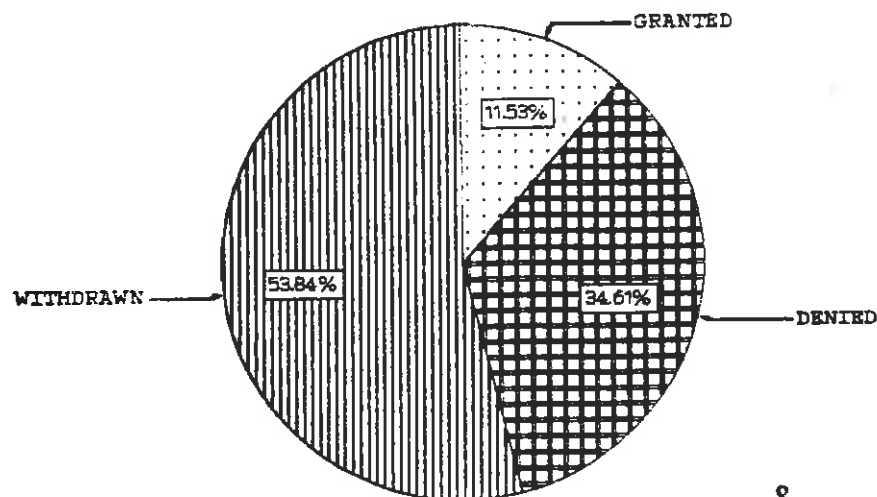
In the 1986-87 reporting period, there were 26 injunctive relief requests received. Of these 26 requests, 14 were withdrawn, 9 were denied, and 3 received PERB orders.

A. PRECEDENTIAL APPELLATE OPINIONS

Banning Teachers Association v. PERB (1986) 168 Cal.App.3d 569 (Review of PERB Decision No. 536)

This case arose from an unfair practice charge filed by the Banning Teachers Association (Association) alleging that the District violated the EERA by entering into a parity

INJUNCTIVE RELIEF REQUESTS Dispositions for Fiscal Year 1986/87



clause agreement with the bargaining representative of another unit (CSEA). The District promised that if its contract with the certificated employees were to include a larger pay increase, the District would give the same increase to the classified employees. The Board found that the District committed no unlawful acts.

The Association appealed the Board's decision to the Fourth Appellate District Court, arguing that the parity clause in CSEA's contract inhibited the District's negotiations with the Association (which represented the certificated employees). The Association argued that the parity agreement had forced it to negotiate on behalf of the District's classified employees as well as its own unit members.

The court annulled the Board's decision and remanded the matter to PERB, holding that "[i]n addition to restricting the flexibility of subsequent negotiations . . . parity agreements have the impermissible effect of directly linking the two units which by statute must be kept apart." The court further held that a parity agreement so restricts the District's bargaining position that it amounts to a unilateral change to the second bargaining unit.

The California Supreme Court granted PERB's petition for review on January 29, 1987.

Los Angeles Unified School District v. PERB (1986) 191 Cal.App.3d 551 (Review of PERB Decision No. 424)

This case arose when Local 699 of the Service Employees International Union (SEIU) sought recognition as the exclusive bargaining representative of the supervisors employed by the Los Angeles Unified

School District (District). The District opposed the request contending that Local 699 was prohibited from representing the supervisors because a second local of SEIU (Local 99) represented employees supervised by those same supervisors.

After a formal hearing, an administrative law judge (ALJ) concluded that Local 699 and Local 99 were not the same employee organization and Local 699, therefore, was eligible to represent the supervisors. On appeal, the Board upheld the ALJ's decision holding that "mere affiliation is insufficient" to render two locals the same employee organization. The District appealed the Board's decision to the Second District Court of Appeal.

In an unpublished decision, the court reversed the Board and ordered it to vacate its decision. The court held that two bargaining units which are affiliated with the same international are the same employee organization if "either unit actually or potentially exercises substantial control over the other's course of action, or if the international actually or potentially exercises control over both of them." The California Supreme Court denied a petition for review filed by PERB, remanded the matter to the Court of Appeal, and directed the Reporter of Decisions to publish the Court of Appeal's opinion.

Regents of the University of California v. PERB (Wilson) (1986) 182 Cal.App.3d 71 (Review of PERB Decision No. 183)

In 1979, William Wilson and AFSCME Local 371 filed an unfair practice charge against the University claiming that the University's refusal to permit the union to distribute organizational literature through the internal mail system violated rights

guaranteed to employees and employee organizations under the Act.

The Board issued its decision which found that the University's total prohibition on the use of the internal mail system by AFSCME was not reasonable and ordered the University to allow access to the union. The University appealed the Board's decision to the First Appellate District Court arguing that granting free access to the internal mail system would violate federal postal laws.

On February 17, 1983, the court remanded the case to PERB to decide whether the University's regulations denying union access to the internal mail system were reasonable in light of the surrounding circumstances, including federal postal requirements. (Regents of the University of California v. PERB (1983) 139 Cal.App.3d 1037.)

On remitter, the Board remanded the matter to an administrative law judge. On October 18, 1984, the Board issued PERB Decision No. 420-H concluding that the total ban on the free use of the internal mail system by employee organizations was an unreasonable regulation in light of all the circumstances. The University again petitioned the First Appellate District for review.

The Court of Appeal upheld the Board's order holding that the "Letters of the Carrier" exception to the federal postal law allowed the HEERA-mandated delivery of union mail through the University's internal mail system. The University then appealed the case to the California Supreme Court. On September 11, 1986, the Supreme Court denied the University's petition. This case is currently pending before the U.S. Supreme Court.

Cynthia McPherson v. PERB
(Carlsbad Unified School District)
(1986) 189 Cal.App.3d 293 (Review of
PERB Decision No. 529)

This case involves a school district's decision not to reclassify a secretary as a "confidential" employee and to transfer her from the personnel office.

On June 7, 1982, Cynthia McPherson filed an unfair practice charge against the Carlsbad Unified School District alleging that the District unlawfully denied her the right to act as a member of the bargaining committee of the exclusive representative. On June 16, McPherson amended her charge to include an allegation that the District unlawfully transferred her from her position as secretary to the Director of Employee Relations in retaliation for her exercise of protected rights. In December, McPherson again amended her charge to include an allegation that she was denied appointment to the newly created position of Credentials-Personnel Technician because of her exercise of protected rights under EERA.

After a formal hearing, the administrative law judge (ALJ) concluded that the District had violated the Act. On appeal, the Board reversed the ALJ and dismissed the complaint. The Board based its decision on McPherson's claim that her typing for the teachers' union led to the denial of her reclassification. The Board decided that McPherson had not carried her required burden of proof in a discrimination charge because she had not shown that the typing was a protected activity, since the typing was on behalf of a union that McPherson did not belong to. The

other allegedly retaliatory actions that followed, the Board held, were not taken in response to other activities by McPherson distinct from her typing. The Board did not separately discuss McPherson's claim that the District interfered with her EERA protected rights by threatening her with job loss if she served on the union's bargaining committee.

On February 21, 1986, McPherson petitioned the Fourth Appellate District Court for review.

The court's decision dated February 11, 1987, found that McPherson's work on behalf of the teachers' union "falls squarely within the parameters of protected activity." The court remanded the case to PERB to decide whether the District had refused McPherson's reclassification to a confidential position because of activity the court found to be protected under EERA and, if so, whether the District had legitimate business reasons for refusing to reclassify McPherson. To make this determination, the court held, PERB should decide whether in choosing a confidential employee, the District had lawfully decided against McPherson because she had engaged in activity protected by the EERA, whether the District transferred McPherson from her former position with the employment relations office to a high school because of activity this court found protected; if so, whether the District would have transferred McPherson anyway for a legitimate business reason; and whether the District interfered with McPherson's EERA rights by refusing to permit her to be on the negotiating committee.

The Supreme Court denied PERB's request for review.

B. SUMMARY DISPOSITIONS

Michael R. Bogan v. PERB (Review of PERB Decision No. 534-H)

On April 6, 1981, the California State Employees Association (CSEA) filed an unfair practice charge on behalf of Michael Bogan alleging that the University of California violated section 3571(a) and (d) of the Act by terminating him from his position in the University's library.

A complaint issued, a hearing was held, and the ALJ issued a decision finding that Bogan had failed to establish that his termination was motivated by protected activity. Upon exceptions filed, the Board adopted the ALJ's decision. Both Bogan and the University requested reconsideration of the Board's decision, which the Board denied.

On April 11, 1986, Bogan petitioned the First District Court of Appeal for a writ of review. PERB filed a Motion to Dismiss Bogan's petition based on Bogan's failure to file his brief in support of the petition within the time specified in Rule 59(c), California Rules of Court.

On October 15, 1986, the court dismissed Bogan's petition.

Oakland School Employees Association v. PERB (Review of PERB Decision No. 538)

On May 11, 1984, the Oakland School Employees Association filed an unfair practice charge with the Board alleging that the District unilaterally adopted an administrative policy providing for pre-disciplinary hearings. The Association also claimed that PERB should issue a complaint because an arbitrator's decision related to the underlying facts did not consider the statutory issue and was repugnant to the Act.

After analyzing the case, the regional attorney determined that the arbitrator considered the same evidence which would be considered in the unfair practice matter presented to PERB and, therefore, dismissed the unfair practice charge.

On review, the Board upheld the regional attorney concluding that the arbitrator's award was not repugnant to the Act and that issuance of a complaint was precluded.

The Association appealed the Board's decision to the First Appellate District Court. PERB filed a preliminary opposition arguing that the Association has no right to seek a writ of extraordinary relief to review a PERB decision refusing to issue a complaint. Then, the court deemed the petition one for a traditional writ of mandate. After a second preliminary opposition, the court summarily denied the Association's petition.

California School Employees Association and its Stanislaus County Chapter No. 668 v. PERB (Stanislaus County Dept. of Education) (Review of PERB Decision No. 556)

On March 12, 1984, CSEA filed a charge against the Stanislaus County Department of Education alleging that the Department violated section 3543.5(a), (b), and (c) of the Act by failing to negotiate with CSEA their decision to "subcontract" unit work out of the bargaining unit.

Upon review, the Board adopted the ALJ's decision which found that the Department's decision to cease direct operation of the local federal migrant program in Stanislaus County and to select a successor delegate agency was nonnegotiable. The Board concluded that even though the District continued to serve as the regional grantee of that program, to

require the Department to negotiate the decision would have "significantly abridged the employer's freedom to exercise managerial prerogatives essential to its mission."

On January 17, 1985, California State Employees Association (CSEA) filed its petition for a writ of review in the Fifth District Court of Appeal. On December 5, the court summarily denied review of CSEA's petition. The court noted that substantial evidence on the record supported the Board's findings and further that the Board's interpretation of the statutory provision defining the scope of representation was not clearly erroneous.

Alhambra Teachers Assn. v. PERB
(Review of PERB Decision No. 560)

On June 23, 1983, the Alhambra Teachers Association filed an unfair practice charge alleging that the Alhambra Unified School District violated the EERA by (1) conditioning implementation of an additional early retirement plan on the Association's agreement not to seek negotiations; and (2) withdrawing the proposed additional plan and the refusal to negotiate thereon. The Board concluded that the District's conduct was not a manifestation of subjective bad faith in negotiations and that the District acted lawfully throughout the sequence of events. The Association petitioned the Second Appellate District Court for reversal of the Board's conclusions.

On October 17, 1986, the court summarily denied the Association's petition.

Association of California State Attorneys and Administrative Law Judges v. PERB (Review of PERB Decision No. 569-S)

On June 3, 1983, CSEA filed an unfair practice charge alleging

that the Department of Personnel Administration (DPA) violated section 3519(b) and (c) of the Ralph C. Dills Act by failing to negotiate in good faith with the Association of California State Attorneys and Administrative Law Judges.

After a hearing was held the ALJ issued a decision finding that DPA had not violated the Act. Exceptions were filed, and on appeal the Board adopted the ALJ's decision.

On May 30, 1986, ACSA petitioned the Third District Court of Appeal for a Writ of Review. PERB opposed ACSA's petition arguing that the Board correctly determined that DPA is not obligated under section 3517 to initiate and exchange economic proposals with the exclusive representative of its employees prior to June 30, the last day of the fiscal year, that a failure to do so is not a per se refusal to negotiate and that DPA, based upon the totality of circumstances, did not negotiate in bad faith. On January 8, 1987, the court summarily denied ACSA's petition.

San Francisco Community College District v. PERB (Thomas Barnes)
(Review of PERB Decision No. Ad-153)

On May 1, 1986, the Board issued PERB Order No. Ad-153 on an interlocutory appeal filed by the District. The ALJ's proposed order denied the San Francisco Community College District's motion to dismiss an unfair practice charge filed by Thomas Barnes which alleged discrimination and retaliation for union activities. The Board's May 1 order affirmed the ALJ's finding that PERB had jurisdiction over the District's janitorial employees and the District subsequently filed a Petition for Writ of Review in the First Appellate District Court.

On June 11, PERB filed a Motion to Dismiss the District's petition for lack of jurisdiction arguing that PERB Order No. Ad-153 is a nonfinal, interlocutory order that is not appealable to the court. On September 9, the court granted PERB's motion and dismissed the District's petition.

Oak Grove School District v. PERB
(Review of PERB Decision No. 582)

On November 27, 1981, the Oak Grove Educators Association (Association) filed an unfair practice charge alleging that the Oak Grove School District unilaterally changed a policy regarding student instructional time which impacted teacher work time. The charge was later amended to include an allegation that the District also violated the Act by creating, assisting and dominating a rival employee organization known as the "Teachers' Forum."

The Board, on review, affirmed the ALJ's findings that the District acted unilaterally by failing to provide notice and an opportunity to bargain regarding the teacher work time and that the District unlawfully established and dominated the Teachers' Forum which interfered with employee rights and bypassed the exclusive representative. The Board ordered the District to cease taking action affecting matters

within scope without first giving the exclusive representative an opportunity to bargain, and to negotiate over the impact of its decision to change the student instructional time. Rather than ordering the District to return the teacher work time to the status quo ante, the Board awarded backpay to those teachers affected by the change from the time of the change until agreement or impasse was reached.

The District appealed the Board's decision to the Sixth Appellate District claiming that PERB erred in deciding that the Teachers' Forum was an employee organization and that the establishment of the Teachers' Forum and its operation resulted in domination of the organization and interference with employee organization rights. The District objected to the Board's decision that the unilateral District-wide change in student instructional time resulted in a change in teacher work time. The District objected to the Board's remedy claiming that the monetary remedy was punitive and that the Board erred by failing to limit its back pay award.

On March 19, 1987 the court dismissed the petition as moot, the parties having settled their dispute.

THE PERB RESEARCH PROGRAM

BACKGROUND

Eleven years has elapsed since the Rodda Act, collective bargaining in public education, was initiated. In that time, the PERB has been crafting a unique, service-oriented research program. Seeking to be of service to the parties under its jurisdiction, to be responsive to the informational needs of the public, Legislature and press, and to be responsible in its expenditure of resources, the research projects of PERB have been modest in scope yet multifaceted in purpose and execution. The projects have been of short duration yet susceptible to long term extension as necessary. They have addressed specific topical needs, yet offer basic behavioral data about the collective bargaining process to policymakers and academicians; and they have encouraged the mutual participation of the parties in the development and direction of the agency.

Reliable, neutrally gathered information provides to those participating in formal negotiations or conflict resolution an impressive tool for accomplishing their task more efficiently and with less tension. Similarly, such information enables the public, policymakers, employees, employers and employee organizations to more fully understand the results of the collective bargaining process.

LEGISLATIVE DIRECTION

The statutes which are administered by the PERB are very clear in their mandate to the agency that ongoing research be conducted. The Educational Employment Relations Act provides in Government Code Section 3541.3(f) that PERB has the responsibility to conduct research and studies "relating to employee-employer relations, including the collection, analysis, and making available of data

relating to wages, benefits, and employment practices in public and private employment, and when it appears necessary in its judgment to the accomplishment of the purposes of this Chapter, recommend legislation."

REQUESTS FOR INFORMATION

The requests for information received by the agency show that the research mandate of PERB is real and functioning. Legislators and their staff, the Executive Branch of Government, the press, academicians, the public, and organizations representing labor and management frequently request information about the results and surrounding variables of the collective bargaining process.

In order to satisfy the need the public and policymakers have for knowing the impact of collective bargaining on education and other public services, a reliable baseline of fundamental data must be developed before questions regarding the impact of public sector bargaining can be addressed accurately.

Specific legislative enactments which have funded the individual research projects of the agency have emphasized PERB's legislative mandate to conduct research and collect data on the bargaining process. For example, PERB has been instructed by the Legislature to gather basic data with regard to health benefit expenditures. The Legislature also instructed PERB to collect information regarding the implementation of the provision of the Hart-Hughes School Reform Act (SB 813) which authorized employers to negotiate discipline short of dismissal for certificated employees.

ROUTINE DATA COLLECTION BY PERB

PERB's ongoing collection of data regarding collective bargaining presents a

wealth of information. Examples of raw data routinely collected by PERB include: negotiated agreements, factfinding reports, unfair practice filings, as well as the agency's own internal management information system regarding processing of various matters which come before it.

- **COLLECTIVE BARGAINING AGREEMENTS**

PERB regulations require employers under each of the Acts it administers to file collective bargaining agreement with an employee organization in a PERB regional office. While the agreements are filed, until this reporting period no systematic accounting of what is in the agreements had been compiled. Electronic data processing presents an exciting opportunity to expeditiously and creatively access and examine the contents of these collectively bargained contracts.

- **FACTFINDING REPORTS**

Reports of the tripartite factfinding panels utilized in the impasse procedures of EERA and HEERA are filed with PERB. Factfinding reports have been available to parties and practitioners by subscription from PERB since its inception, and in addition, PERB has compiled an index to these. The index permits easy cross-reference of issues, parties and neutrals involved in each report. The index is compiled as a manual reference document, however, not as a database.

- **UNFAIR PRACTICE CHARGE FILINGS**

PERB's unfair practice charges constitute another source of data on the collective bargaining process and the relationships between parties within PERB jurisdictions. PERB decisions on unfair practice filings are manually indexed, and the index is available to the parties and the public commercially or by subscription from PERB.

- **MANAGEMENT INFORMATION SYSTEM**

The PERB internal management information system contains information about the processing of unfair practice charges, representation petitions, requests for impasse resolution, representation and other matters.

The information system produces data which is used primarily for internal case management and secondarily, in the compilation of PERB annual reports to the Legislature.

- **DESIGNING AND IMPLEMENTING RESEARCH PROJECTS OF MANAGEABLE PROPORTIONS**

The PERB research program has been constrained by a variety of factors which influenced what projects would be undertaken and how they would be conducted. PERB is evolving a research program based on the congruence between needs and resources within the agency and needs of the parties and related organizations for objective and reliable information.

PERB's lack of research staff, facility, or equipment in combination with the desire of the agency and the parties to utilize its research capability has meant a cautious entry into the research world. PERB has been reluctant to take on a research program only to abandon the project down the road. Because of these and other constraints, the research effort was delayed until after the agency had been fully established. PERB's research program has been constructed to complete small, focused projects using research consultants and inter-agency agreements.

The research efforts of PERB to date have met these criteria, with the EERA statute specifically authorizing the contract approach. Section 3541.3(f) of the Government Code states: "The board may enter into contracts to develop and

maintain research and training programs designed to assist public employers and employee organizations in the discharge of their mutual responsibilities under this chapter." Yet, since the research results can have far-reaching impact upon the process, this design may give way to a greater, more long-term commitment of the agency's resources as the ability of PERB to meet its research goals is evaluated. Accordingly, this method of contracting for specific projects remains under review of the Board. In view of these constraints, PERB has implemented most of its research via staff resources or contracts with other State entities.

SELECTING RESEARCH EFFORTS

Three major elements have influenced the establishment of research priorities. First, the statute instructs that PERB focus on reports and studies "necessary to the accomplishment of the purposes of the collective bargaining acts." A prime consideration has been to make information available to the parties that would reduce bargaining stress. PERB, with the help of its Advisory Committee, identified research needs that would support the parties in conducting realistic and factual bargaining. The second element influencing the choice of research projects is that of fiscal resources available to the agency for research purposes.

Finally, these research projects will be the start of a collection of raw, behavioral data resulting from a significant public policy decision. As such they should provide usable data for scholars and future policy makers.

HEALTH CARE EXPENDITURES AND COST CONTAINMENT

The State of California, the schools and higher education employers, as has been the case for virtually all other employers in the last decade, have been faced with rapidly increasing health care costs. It was especially true in 1980-83. In an

effort to provide bargaining parties with information about the magnitude of these increases, and more importantly the alternatives to containing costs in 1983, pursuant to SB922 of 1983 the Legislature and Governor, directed PERB to: "... collect, analyze, and compare data on health benefits and cost containment in the public and private sectors, and to make recommendations concerning public employees. The recommendations may take into consideration health benefit cost containment issues in public and private employment. . .", PERB conducted studies from 1984 through 1986.

The results of PERB's Health Care Cost Containment surveys have been forwarded to the Legislature under separate cover.

FACTFINDING

The actual and potential effectiveness of factfinding concerned members of PERB's Advisory Committee. Advisory Committee members questioned PERB regulations governing the factfinding process, the training of neutrals and whether the process generated more conflict than it resolved. The questions raised in the Advisory Committee could only be resolved through a systematic sounding of the results, the opinions and the viewpoints of all the participants in the factfinding process. Based upon the Advisory Committee discussions, it was also thought to be likely that there were different types of factfinding situations and that the process could be improved by identifying the characteristics of successful and unsuccessful factfinding cases.

THE FACTFINDING EVALUATION SURVEY

In June of 1986, PERB contracted with Policy Analysis in California Education (PACE) to conduct a survey of factfinding participants. The survey was designed to help PERB and others evaluate the factfinding process as an impasse resolution technique. The factfinding

survey sought participants' views on the reasons for going to factfinding, the purposes served by the factfinding, the obstacles encountered, and participants' ideas about what changes should be made in the factfinding process. The results of the survey are also expected to enable the parties and public to better understand the factfinding process and what it can or cannot achieve toward resolving impasse situations in the collective bargaining process.

NEUTRAL, RELIABLE DATA ABOUT BARGAINING RESULTS

A neutral, reliable database containing a tally of the contents of collective bargaining agreements can provide important and useful statistical information to bargaining parties. Such information compiled by a neutral body will conceivably reduce disagreements between parties and allow for more rapid closure of bargaining. While this is a familiar sentiment among PERB Advisory Committee members, such a database also provides state policymakers such as the Legislature and its staff and the Administration with an added tool in their efforts to predict and manage the costs and conflicts in public education.

THE CONTRACT REFERENCE FILE

To test the feasibility of a contract reference file, PERB contracted with the California State Department of Industrial Relations (DIR), Division of Labor Statistics and Research, in May 1986, to develop a coding system and test code 260 active contracts in educational units. A computerized reference file of agreements on file at PERB has been completed and the results of the demonstration project were released in February to all school districts and employee organizations.

SUMMARY

In developing its research and communications goals, PERB has relied heavily upon the stimuli of expressed need

from its immediate constituents – the parties under its jurisdiction as well as the public, press, Administration, and the Legislature. As a result, these goals, when reduced to specific statements of expectation are to . . .

- encourage and conduct high quality research in labor-management relations;
- provide a forum for the discussion of labor relations problems and their solutions;
- provide a medium for the exchange of information related to the aims, objectives, procedures and administration of dispute resolution;
- assist the PERB in rendering improved services to the parties, the public and the executive, legislative, and judicial branches of government;
- improve employer-employee relationships in the public sector and promote the peaceful resolution of employer-employee and labor-management disputes; and
- develop the public's interest in labor relations, and to aid labor, management, and the public in obtaining a better understanding of their respective responsibilities under the laws administered by PERB.

The research and information dissemination goals which PERB has set are, in great measure, a reflection of the organization's legislative mandate and the self-image it has established in implementing the law.

While the immediate parties to the collective bargaining process describe it as productive, fulfilling, exciting, meaningful, and even historically important, those who are not privy to the

bargaining table are often curious, confused, and left to wonder about its impact. Because basic research data is a tool which can serve to satisfy the needs of both of these groups, it is an activity which requires an investment of effort, attention, and resources.

(NOTE: The foregoing review of the PERB Research program has been summarized from an article appearing in the June 1987 issue of the California Public Employee Relations Magazine.)

LEGISLATION

1986-87 LEGISLATION AFFECTING PERB

In 1986, Senator Alquist authored Senate Bill 2564, which changed the name of the State Employer-Employee Relations Act (SEERA) to the Ralph C. Dills Act.

CASE DIGEST

REPRESENTATION

Communication Workers of America v. State of California (Department of Personnel Administration) (6/27/87)
S-OS-61-S

The exclusive representative sought to delay holding an organizational security election because of confusion in the bargaining unit as to who the exclusive representative was (a decertification election had been held but results were not yet certified). The Board held that the election should proceed because of equitable consideration and because the parties were obligated to proceed by contract and by statute.

Laborers International Union, Local 1276, and Regents of the University of Calif. (09/23/86) SF-R-688-H

The Board found that a separate unit of Protective Service Officers (PSOs) at Lawrence Livermore National Laboratory was an appropriate unit. In so finding, the Board concluded that circumstances had changed sufficiently since the previous unit hearing, concerning placement of these employees, to warrant reconsideration of the issue. Analyzing the current facts, the Board concluded that a separate unit of PSOs was appropriate.

Communication Workers of America, Psych Tech Local 11555 v. State of California (Departments of Personnel Administration, Developmental Services, and Mental Health) (12/30/86) S-E-261-S; S-OB-104-S (S-D-87-S; S-R-18)

The Board affirmed the ALJ's ruling that the state violated the Ralph C. Dills Act

section 3519(a), (b), (c) and (d) by unilaterally changing union access rules at several state hospitals, and by giving unlawful support to a rival union by; (1) reducing bulletin board space available to the exclusive representative, and (2) making statements in support of the rival union. The Board rejected CWA's claim that these acts warranted overturning the decertification election. However, because the effects of the employer's act were not widespread, the appropriate remedy was a cease-and-desist order and restoration of status quo ante access rights. The Board ordered the election results certified.

Alum Rock Union Elementary School District and Teamsters Local No. 165 and California School Employees Association (8/6/86) SF-D-129

The Board held that a short extension to a collective bargaining agreement—even an extension of insufficient duration to contain a window period—will be a valid bar to a decertification petition so long as the parties are actively engaged in good faith negotiations and absent the evidence of a bad faith attempt to manipulate the window period.

Coast Federation Of Employees/American Federation Of Teachers, Local 1911, and Coast CTA/NEA, and Coast CCD (10/15/86) LA-D-197

The Board entertained an appeal by Coast CTA/NEA challenging the regional director's determination that the decertification petition submitted by Coast Federation of Employees/AFT was accompanied by an adequate showing of

support. CTA's appeal disputes the regional director's conclusion arguing that the size of the bargaining unit is other than asserted by AFT.

Finding that the determination of adequacy of support is an assessment best rendered initially by the regional staff, the Board remanded the case to the regional director to fully consider the parties' assertions regarding unit size.

Santa Monica-Malibu Unified School District and its Chapter #227 and Local 660, SEIU, AFL/CIO (4/15/87) LA-D-200

The Board affirmed an administrative decision finding that a decertification petition was timely filed despite the fact that the petition was not actually served on the other parties until two days after the filing (after a new Collective Bargaining Agreement (CBA) had been agreed to by the District and the incumbent union). The Board emphasized that the other parties had actual notice of the filing of the petition prior to the signing of the new CBA (nor was there evidence of prejudice). Thus, under the circumstances, including the lack of evidence of (or motive for) a fraudulent filing of the false proof of service, the Board excused the failure to abide by the concurrent service requirement of regulation 32140(b).

Peralta Community College District and Peralta Federation of Teachers, Local 1603, CFT/AFT, AFL/CIO and Edith M. Austin Skills Center/CTA/NEA (6/18/87) SF-UM-385 and SF-D-156 (R-501)

The Board resolved a conflict posed by the filing of a unit modification petition and a decertification petition involving the same bargaining unit by holding that a decertification petition which is properly filed in an established unit and contains the requisite proof of support should be given priority over a unit modification petition, so long as no formal determination on the merits of the unit modification petition has been made at the time the decertification petition is filed.

PUBLIC NOTICE

Howard O. Watts v. Los Angeles Unified School District (2/5/87) LA-PN-89

A public notice complaint was dismissed because the District has voluntarily complied is in accord with PERB policy and precedent. This is particularly so in the absence of any facts showing the District engages in a policy of ignoring section 3547.

UNFAIR PRACTICE CASES

EERA

A. ACCESS

Teachers Assn. of Long Beach v. Long Beach Unified School District (1/7/87) PERB Decision No. 608

The Board affirmed an ALJ's conclusion that the contract specifically precluded employee organization access during a conference period, since the period was designated "worktime" and therefore, access is presumptively inappropriate.

The Board majority reversed the ALJ on the issue of employee organization access during 20-minute duty periods before and after school. It found that access was presumptively inappropriate because the periods are defined. The latter finding reverses that portion of Long Beach School District (1982) PERB Decision No. 130 which required a showing that such periods must be "expressly and/or uniformly reserved for preparation time."

B. CONTRACT ENFORCEMENT

CSEA v. Clovis Unified School District (12/19/86) PERB Decision No. 597

The Board upheld the dismissal of an unfair practice charge that alleged a violation of EERA because the employer had not complied with a previously agreed to settlement in an earlier case. The Board found that the noncompliance was actually a breach of contract action and that no complaint could issue.

Robert Ray Bradley v. Los Angeles Community College District (3/31/87) PERB Decision No. 618

The Board summarily affirmed a regional attorney's dismissal of a charge alleging that the employer violated the EERA by refusing to accept an evaluation made by charging party of another teacher, and by accepting a grievance, filed by the latter beyond the time limit contained in the contract. The allegations were, at most, contract violations and did not rise to the level of unilateral changes in policy or practice.

C. DEFERRAL TO ARBITRATION

Bruce Lee Caukin v. Los Angeles Unified School District (9/25/86) PERB Decision No. 587

The Board summarily affirmed a regional attorney's decision to defer the charge to arbitration. The charging party was covered by a collective bargaining agreement containing a binding arbitration clause, as well as other provisions arguably controlling the matter at issue. The District had agreed to waive all procedural defenses and the matter had previously been set for arbitration.

Amador Valley Teachers Assn. v. Pleasanton Joint School District (10/30/86) PERB Decision No. 594

The Board affirmed an ALJ's decision rejecting the District's request that the unfair practice charge filed by the union be deferred to arbitration. The parties' contractual grievance

machinery was limited to disputes over express terms of the agreement, and no contract provision covered minimum days, the subject of the alleged unfair practice. At the time of the alleged unilateral change, the parties were engaged in reopener negotiations over the school calendar pursuant to the terms of their agreement. Proposals and counterproposals exchanged during the reopener negotiations made specific reference to the subject of minimum days. Concluding that the contractual grievance machinery does not "cover the matter at issue," the majority declined to defer the matter to arbitration.

D. DISCRIMINATION

Inglewood Teachers Association v. Inglewood Unified School District (10/15/86) PERB Decision No. 593

The Board upheld an ALJ's finding that the District violated sections 3543.5(a), (b) and (c) of EERA by (1) failing to implement an agreed upon bell schedule; (2) unilaterally imposing a rule requiring prior approval for use of mailboxes, and (3) disciplining a teacher for failing to follow the rule. The Board modified the ALJ's remedy, since the exact impact of the District's action of renegeing on its bell schedule agreement was not clear.

Kathy McGinnis Wadsworth v. Los Angeles Unified School District (12/23/86) PERB Decision No. 599

The Board affirmed a regional attorney's dismissal of charges which failed to contain facts demonstrating a nexus between allegedly protected

activity and discriminatory conduct by the District.

Robert Ray Bradley v. Los Angeles Community College District (3/27/87) PERB Decision No. 617

The Board summarily affirmed a regional attorney's dismissal of a charge alleging that an employer violated the EERA by transferring a teacher to the charging party's department in retaliation for engaging in protected activities. No evidence was presented to establish a nexus between the District's transfer and the protected activities. Of the other allegations made, no generalized effect was alleged, and, thus, the matters were, at most, contract violations.

Tony Petrich v. Riverside Unified School District (6/11/87) PERB Decision No. 622

The Board affirmed an ALJ's proposed decision, dismissing the complaint in all four charges consolidated for hearing. In Cases LA-CE-2112, 2130 and 2143, the ALJ granted motions to dismiss at the close of the charging party's case-in-chief and in LA-CE-2143, after receipt of the transcript and submission of briefs. In LA-CE-2134, the Board affirmed the ALJ's finding that the District did not unlawfully threaten charging party at a meeting concerning the proposed change in his starting time, but the Board found it unnecessary to consider whether (assuming there was a threat) it was in response to protected activity. The Board, therefore, did not adopt that portion of the ALJ's analysis.

E. DUES DEDUCTION

Classified Employees Assn. v. San Diego Unified School District (1/15/87) PERB Decision No. 610

The Board affirmed an ALJ's ruling that where there is no exclusive representative, the employer must comply with Government Code section 3543.1(d) and honor the request of employees who wish to have dues deducted from their paychecks.

F. DUTY OF FAIR REPRESENTATION

Vincent J. Furriel v. Rio Hondo College Faculty Assn., CTA/NEA (7/30/86) PERB Decision No. 583

The Board affirmed an ALJ's dismissal of a complaint holding that the selection of the Association's representatives to a sabbatical leave review committee is an internal union matter not subject to the duty of fair representation.

Gladys M. Bracey v. United Teachers of Los Angeles (3/27/87) PERB Decision No. 616

The Board summarily affirmed a regional attorney's dismissal of a charge alleging that the Association failed to represent the charging party in a complaint against the District. A number of alleged incidents were beyond the statute of limitations period of six months. As to the remaining allegations, charging party refused to use the counsel provided to her by the union. The Board held that the union's duty of fair representation does not extend to providing the charging party with counsel of her choice.

James Vernon Brown v. Los Angeles School District Peace Officer's Assn. (6/23/87) PERB Decision No. 627

The Board summarily affirmed the Board agent's dismissal of a charging party's allegation that the Association violated section 3543.6(b) of EERA by failing to satisfy its duty of fair representation. The Board found no merit in charging party's unsupported claim that the Board agent showed favoritism toward the Association or bias against charging party.

G. FREE SPEECH

California School Employees Assn. v. Anderson Union High School District (8/29/86) PERB Decision No. 584

The Board found that derogatory comments made to union representative concerning bargaining proposal were not unlawful.

Santa Ana College Organizing Committee and Joanne Maybury-McKim v. Rancho Santiago Community College District (12/30/86) PERB Decision No. 602

The Board affirmed an ALJ's ruling that the District violated section 3543.5(a) and (b) of EERA by disciplining an employee for writing and publishing articles in the union's newsletter. The majority held that the employee's articles about working conditions, negotiations and educational policy were matters of legitimate interest to employees and were not so "opprobrious, flagrant, insulting, defamatory, insubordinate or fraught with malice as to cause substantial disruption or material interference with school activities."

The articles, therefore, did not lose their statutory protection, and the notice of unprofessional conduct was found to be reprisal for protected conduct and interfered with the employee organization's rights.

H. INTERFERENCE

California School Employees Association v. Anderson Union High School District (8/29/86) PERB Decision No. 584

The Board summarily affirmed a regional attorney's dismissal of four allegations of interference and reprisal, finding that they failed to state prima facie violations of EERA.

Victor Wightman v. Los Angeles Unified School District (1/28/87) PERB Decision No. 611

Finding that the District threatened a school bus driver attending a grievance meeting with discharge, the Board reversed an ALJ's decision and found that the comment made by the District official was not a threat. The remark did, however, interfere with the employee's right to pursue his grievance, and, thus, the District violated EERA section 3543.5(c). The panel unanimously agreed that a cease-and-desist order was the proper remedy.

I. JURISDICTION OF PERB

Gladys M. Bracey v. Los Angeles Unified School District (9/25/86) PERB Decision No. 588

The Board summarily affirmed a regional attorney's partial dismissal of allegations which merely claimed violations of the Education Code, over which the Board has no jurisdiction.

Robert Ray Bradley v. Los Angeles Community College District (6/17/87) PERB Decision No. 623

The Board affirmed a regional attorney's dismissal of an allegation asserting that the parties' collective bargaining agreement contravened provisions of California Civil Code. The Board agent also dismissed charging party's claim that the alleged "collusive relationship" between the District and the exclusive representative had a bearing on the Board's assessment of the prima facie case.

Tustin Unified School District v. Tustin Educators Association (6/23/87) PERB Decision No. 626

The Board affirmed a regional attorney's dismissal of a charge alleging that the Association violated provisions of EERA when it distributed, through the District's internal mail system, materials regarding the election of members to the District Board of Education. The District had alleged that the Association's conduct violated section 7054 of the Education Code.

J. NEGOTIATIONS

Elsinore Valley Education Association v. Lake Elsinore School District (12/30/86) PERB Decision No. 603

The Board affirmed a proposed ALJ decision finding the District violated EERA section 3543.5(a), (b) and (c) by insisting to impasse on the withdrawal of pending unfair practice charges and grievance. The Board concluded that insistence to impasse on this nonmandatory subject of bargaining was a per se refusal to bargain.

K. REPRESENTATIONAL RIGHTS

California School Employees Assn. v. Anderson Union High School District (8/29/86) PERB Decision No. 584

The Board found that employee has no right to have a union representative present at an employee orientation meeting.

Robert Ray Bradley v. Los Angeles Community College District (6/17/87) PERB Decision No. 623

The Board summarily affirmed a regional attorney's dismissal of the charge, finding that the allegations failed to establish that the District had deprived charging party of his right to representation or that the District had bypassed the charging party's exclusive representative.

L. STATUTE OF LIMITATIONS

Burbank Teachers Assn., CTA/NEA v. Burbank Unified School District (9/25/86) PERB Decision No. 589

The Board summarily affirmed a regional attorney's partial dismissal. The dismissed allegation, part of the first amended charge, was untimely and did not "relate back" to the original charge so as to be deemed timely. The original charge alleged a unilateral change in employee contributions to the Blue Cross health insurance plan. The untimely amendment alleged that the District concealed pertinent information concerning projected costs of the plan during prior contract negotiations. The Board agreed that the relation between the two allegations was too tenuous to warrant application of the "relation back" doctrine.

Tony Petrich v. Associated Teachers of Metropolitan Riverside (12/22/86) PERB Decision No. 598

The Board affirmed a regional attorney's dismissal of the charge as untimely.

Teachers Assn. of Long Beach v. Long Beach Unified School District (1/7/87) PERB Decision No. 608

The Board concluded that allegations of unreasonable access regulations raised for the first time in the Association's response to a motion to particularize, which was filed seven months following the District's revision of its regulations, were timely, in that the charge raised allegations of a continuing nature.

M. UNILATERAL CHANGES

California School Employees Assn. and its Placentia Chapter 293 v. Placentia Unified School District (11/4/86) PERB Decision No. 595

The Board affirmed a proposed decision finding that the District violated EERA section 3543.5(a), (b) and (c) by refusing to negotiate reductions in hours and the effects of layoffs. The Board held that the parties' contract was silent on the issue of reducing hours, and that the reductions were therefore negotiable. However, the Board held that the District could follow, without obligation to bargain, to the extent applicable, its existing personnel policies with regard to the implementation of the reductions.

Elsinore Valley Education Assn. v. Lake Elsinore School District (12/31/86) PERB Decision No. 606

The Board reversed an ALJ's finding that the District violated the Act when the District adopted a tentative school calendar in June, 1984. The District had made several requests of the Association to negotiate the calendar, and the school Board's minutes reflected that it adopted the calendar, "subject to negotiations." The District continued to express its desire to negotiate the calendar after its adoption, and when it became apparent that no agreement would be reached by the first date of service, the District revised the calendar to eliminate a proposed additional date of service for teachers prior to the start of school. Although the Association had argued that the proposed calendar changed the workyear, it failed to prove either that the adoption of the calendar was intended to be a final calendar or that the calendar unilaterally altered the terms and conditions of employment. The Board concluded that the mere adoption of a tentative calendar is not a per se refusal to bargain, nor is it a per se change in the terms and conditions of employment.

N. UNFAIR PRACTICE PROCEDURE

Tony Petrich v. Riverside Unified School District (10/10/86) PERB Decision No. 592

The Board summarily affirmed an ALJ's proposed decision granting the

District's motion to dismiss (at the close of Petrich's case-in-chief). The Board agreed that Petrich had failed to establish any prima facie violation of the EERA.

The Board also rejected Petrich's claims that the District's brief should not be considered because of a misdated proof of service and its alleged reliance on waived affirmative defenses; that the ALJ improperly excluded evidence of additional unfair practices not contained in the complaint, and that the ALJ improperly cut off his opening statement before its completion.

O. WAIVER

California School Employees Association v. Placentia Unified School District (11/4/86) PERB Decision No. 595

The Board agreed with an ALJ that CSEA did not waive its right to bargain layoff effects not specifically covered by the contract's layoff article, since there was no additional evidence indicating waiver.

Teachers Assn. of Long Beach v. Long Beach Unified School District (1/7/87) PERB Decision No. 608

The Board found that the union may waive its right of access by virtue of language in the collective bargaining agreement, so long as there is no serious impairment of those access rights granted by statute.

RALPH C. DILLS

A. ACCESS

Communication Workers of America, Psych Tech Local 11555 v. State of California, Dept. of Personnel Administration (12/30/86) PERB Decision No. 601-S

The Board affirmed an ALJ's ruling that the State employer violated Ralph C. Dills Act section 3519(a), (b), (c) and (d) by unilaterally changing union access rules at several state hospitals, and by giving unlawful support to a rival union by (1) reducing bulletin board space available to the exclusive representative, and (2) making statements in support of the rival union. The Board rejected CWA's claim that these acts warranted overturning the decertification election, however, because the effects of the employer's acts were not widespread, and the appropriate remedy was a cease-and-desist order and restoration of the status quo ante access rights.

B. COLLATERAL ESTOPPEL/RES JUDICATA

California Union of Safety Employees v. State of California, Dept. of Developmental Services (4/17/87) PERB Decision No. 619-S

The Board adopted an ALJ's decision, applying collateral estoppel to allegations of improper dismissal. Collateral estoppel effect will be granted to an administrative decision made by an agency (1) acting in a judicial capacity, (2) to resolve properly raised disputed issues of fact or where (3) the parties had a full opportunity to litigate those issues. State Personnel Board hearing took evidence, ruled on the identical issue before PERB, and upheld

dismissal. Applying People v. Sims (1982) 32 Cal.3d 468, the ALJ adopted the result reached by SPB.

C. CONTRACT BAR

Mary E. Frye v. California State Employees' Association (12/3/86) PERB Decision No. 604-S

The Board determined that CSEA had unlawfully interfered with Mary Fry's exercise of rights by its refusal to accept her resignation. The Board found that a day-to-day contract extension did not bar the resignation because the contract provided that members could resign within the last 30 days of the expiration of the contract and Fry had submitted a timely request to resign.

D. DEFERRAL TO ARBITRATION

California State Employees Association v. State of California, Department of Personnel Administration (12/24/86) PERB Decision No. 600-S

The Board summarily affirmed a regional attorney's dismissal and deferral to arbitration of CSEA's charge that the Department of Personnel Administration (Department of Corrections and California Youth Authority) violated Ralph C. Dills Act sections 3519(a) and (b) by refusing to grant access to a CSEA labor relations representative. It was found that the dispute was covered by the contract and that it occurred within a stable bargaining relationship. Further, the employer indicated its willingness to proceed to arbitration and waived contract-based procedural defenses. The regional attorney rejected CSEA's claim that it would be futile to take the dispute to arbitration because the State always delayed the processing of grievances to

arbitration. See United Aircraft Corp. (1973) 204 NLRB No. 133 [83 LRRM 1411] (test for futility).

E. DUTY OF FAIR REPRESENTATION

Howard S. Morrow v. California State Employees' Association (2/20/87) PERB Decision No. 614-S

The Board adopted decision of an ALJ holding that CSEA did not violate the Ralph C. Dills Act section 3519.5(b), nor did it breach its duty of fair representation when it refused to pursue charging party's claim for a pay rate increase. CSEA's action was not arbitrary, discriminatory, or motivated by bad faith. CSEA determined in good faith that charging party's grievance was not worth pursuing.

Mary Katherine Cupp v. AFSCME (2/6/87) PERB Decision No. 612-S

The Board upheld the dismissal of an unfair practice charge that alleged AFSCME violated the Ralph C. Dills Act by: (1) overcharging charging party on her monthly membership dues for two months in which she worked part-time; (2) failing to keep financial transaction records as required by the Ralph C. Dills Act section 3515.7(e), *infra*; (3) refusing to file a grievance on Cupp's behalf; (4) failing to provide sufficient training for AFSCME stewards; (5) failing to negotiate improved wages; and (6) failing to establish reasonable procedures for members to receive fair share fee refunds. The Board affirmed the dismissal but referred charging party's complaint regarding the sufficiency of AFSCME's financial records to the Sacramento Regional Office to be processed as a Petition to Compel Compliance.

F. NEGOTIATIONS

California State Employees' Assn. v. State of California, Department of Personnel Administration (9/4/86) PERB Decision No. 585-S

The Board affirmed a regional attorney's dismissal of charges of bad faith bargaining, since much of the conduct alleged occurred outside the statutory filing period and the conduct which occurred within that period was insufficient to establish a *prima facie* case.

HEERA

A. DUTY OF FAIR REPRESENTATION

Martha O'Connell v. California State Employees Association (12/16/86) PERB Decision No. 596-H

The Board affirmed a regional attorney's dismissal of O'Connell's charge that CSEA violated its duty of fair representation by failing to fund grievants' travel to the fourth step of the grievance procedure in Long Beach, California. The charge contained no factual allegations demonstrating that CSEA's rule regarding travel funding was arbitrary, discriminatory, or in bad faith.

The Board did not agree with the regional attorney's assessment of O'Connell's claim that CSEA misrepresented its position regarding travel funding at a meeting held to discuss ratification of the negotiated contract. The Board rejected the regional attorney's reliance on federal precedent which holds that unlawful misrepresentation during the ratification process requires a showing that the vote to ratify would have been different absent the

misrepresentation and that the employer would have acceded to the union's demands had the vote been different. The Board held that a prima facie case of a breach of the duty of fair representation has been stated where it is alleged that the exclusive representative knowingly misrepresented a fact in order to secure from its constituents their ratification of a contract. Because the Board had not enunciated the above-stated standard prior to this case, the regional attorney may not have appropriately directed the investigation.

The Board, therefore, directed that the regional attorney reconsider the allegations pertinent to the misrepresentation and conduct an investigation in accordance with the enunciated legal standard.

B. STATUTE OF LIMITATIONS

California Faculty Association v. California State University (2/9/87) PERB Decision No. 613-H

The Board affirmed an ALJ's decision finding that CSU violated HEERA by refusing to turn over correlated wage survey information to CFA. In so deciding, the Board rejected the University's contentions that the information was not relevant and was privileged.

California State Employees' Assn. v. CSU (Fullerton) (12/31/86) PERB Decision No. 605-H

The Board affirmed the ALJ's dismissal of charge as untimely.

C. REQUEST FOR INFORMATION

George E. Reich v. International Union of Operating Engineers (10/3/86) PERB Decision No. 591-H

The Board upheld a regional attorney's dismissal of Reich's duty of fair representation charge as untimely. The statutory time limit began to run when the union assessed the merits of Reich's case, eventual success before the arbitrator notwithstanding. (Chairperson Hesse dissented.)

Tommie Dees v. California State University (Hayward) (1/2/87) PERB Decision No. 607-H

Of the allegations covered on appeal, one was remanded to be added to the complaint that had issued, the dismissal of six were affirmed, the other allegations were remanded to the General Counsel to determine if the statute of limitations was arguably tolled, and to determine, if timely, whether a prima facie case was stated.

ADMINISTRATIVE APPEALS

EERA

A. CONTRACT BAR

Alum Rock Union Elementary School (8/6/86) PERB Order No. Ad-158

The Board held that a one-month contract extension bars a decertification petition so long as the parties are actively engaged in good faith negotiations and absent evidence of a bad faith attempt to manipulate the statutory window period.

The Board relied on the express language of EERA section 3544.7(b)(1). Further, the Board found that the interest in protecting a stable bargaining relationship outweighs the incremental benefit to

employee free choice that is gained by having an additional open period following shortly after the close of the statutory window period. Accordingly, it found the short-term contract extension to be a bar.

B. DECERTIFICATION

Coast Federation of Employees/
American Federation of Teachers,
Local 1911 (10/15/86) PERB Order
No. Ad-159

The Board entertained an appeal by the California Teachers Association (CTA) challenging the regional director's determination that the decertification petition submitted by the Coast Federation of Employees was accompanied by an adequate showing of support. CTA's appeal disputes the regional director's conclusion regarding the size of the bargaining unit.

The Board exercised jurisdiction over CTA's claim but found the record devoid of any information gathered during the regional director's investigation regarding the unit size dispute.

Finding that the determination of adequacy of support is an assessment best rendered initially by the regional staff, the Board remanded the case to the regional director to fully consider the parties' assertions regarding unit size.

Santa Monica-Malibu Unified School
District (4/15/87) PERB Order No.
Ad-163

The Board affirmed an administrative decision by the regional director finding that a decertification petition was timely filed by SEIU despite a failure to concurrently serve the petition on the other parties as required by PERB Regulation 32140(b). The Board emphasized that

the other parties had actual notice of the filing of the petition prior to the signing of the new collective bargaining agreement and that there was no evidence of prejudice to any party. Thus, under the circumstances, including the lack of evidence of, or motive for, a fraudulent filing of the false proof of service, the Board excused the failure to abide by the concurrent service requirement of Regulation 32140(b).

In Order No. Ad-163a, the Board denied CSEA's request for reconsideration which claimed that the Board committed an error of law by excusing SEIU's failure to strictly abide by PERB Regulations. The Board found no basis for the request holding that SEIU's behavior was not willful, nor was there any plausible motive.

Peralta Community College District
(6/18/87) PERB Order No. Ad-164

The Board resolved a conflict posed by the filing of a unit modification petition and a decertification petition involving the same bargaining unit by holding that a decertification petition which is properly filed in an established unit and contains the requisite proof of support should be given priority over a unit modification petition, so long as no formal determination on the merits of the unit modification petition has been made at the time the decertification petition is filed. In this case, the decertification petition was filed shortly after a unit modification petition which sought to consolidate two separate teacher units established in Peralta No. 77. The Regional Office directed a self-determination election to determine both the configuration and decertification issues, based on the finding that either unit configuration would be appropriate. The Board

rejected the Regional Office's finding that the merits of the unit modification petition alleging changed circumstances were undisputed. It thus concluded that to allow the employees to choose their unit configuration was an improper delegation of the agency's authority. The Board determined that the responses to the question on the ballot dealing with the decertification issue could be used to determine the merits of the decertification petition.

The administrative decision failed to determine the status of a third unit of teachers (in the Accelerated Instructional Program) sought to be added by the unit modification petition.

C. JURISDICTION OF PERB

Rim of the World Teachers Assn. v. Rim of the World Unified School District (12/31/86) PERB Order No. Ad-161

On an interlocutory appeal, the Board affirmed an ALJ's decision staying further proceedings in an unfair practice case before PERB, pending the resolution of a libel action filed in Superior Court against the charging party.

The Board rejected the contention that PERB has exclusive initial jurisdiction over allegedly tortious conduct arising from a labor dispute, holding instead that PERB has concurrent jurisdiction with the Superior Court.

The Board further held that a stay of the PERB case was appropriate where the evidence introduced at the

unfair practice hearing demonstrated that the libel suit raised genuine issues of material fact.

The Board noted that Regulation 32200 governs the procedure for interlocutory appeals of Board agent decisions to the Board itself, rather than Regulation 32360.

D. LATE FILING

Fontana Classified Employees Assn. (7/31/86) PERB Order No. Ad-157

The Board affirmed the Executive Director's decision to reject as untimely an appeal of a Board agent's dismissal of a decertification petition (even with the addition of a 5-day extension pursuant to Civil Code Procedure section 1013). The Board held that the 5-day extension should be applied prior to the application of Regulation 32130(b), which extends the time for filing where the last day falls on a Saturday, Sunday or holiday.

The Board found no extraordinary circumstances which would excuse the late filing, as the late filing was the result of an ordinary and predictable mail delay.

E. PUBLIC NOTICE

Howard Watts v. Los Angeles Unified School District (2/5/87) PERB Order No. Ad-162

The Board affirmed dismissal of a public notice complaint because the District had voluntarily complied with the requirements of PERB policy and precedent. This is particularly so in the absence of any facts showing the District engages in a policy of ignoring section 3547.

INJUNCTIVE RELIEF REQUESTS

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION - DATE</u>
240	CSEA v. State of Calif. (DPA, Corrections, Youth Authority)	S-CE-291-S	Denial of access to union representative	8/1/86	Denied 8/13/86
241	Myrtle E. Cosme v. LA USD	LA-CE-2392-E	Discriminatory discharge	9/19/86	Denied 10/7/86
242	CSEA v. State of Calif. (DPA, Corrections, Youth Authority)	S-CE-291-S	Denial of access to union representative	9/22/86	Denied 10/14/86
243	Bobby J. Fikes v. Associated Chaffey Teachers Organization	LA-CO-357-E	Agency fee	9/29/86	Denied 10/15/86
	Bobby J. Fikes v. Chaffey Joint Union HSD	LA-CE-2363-E			
244	Amador Valley T.A., CTA/NEA v. Pleasanton Joint S.D.	SF-CE-1130-E	Failure to bargain - post factfinding	10/1/86	Withdrawn 10/6/86
245	El Segundo USD v. El Segundo Ed. Assoc.	LA-CO-378-E	Refusal to work back to school night	10/3/86	Withdrawn 10/4/86
246	El Segundo USD v. El Segundo Ed. Assoc.	LA-CO-378-E	Refusal to work back to school night	10/6/86	Denied 10/7/86

INJUNCTIVE RELIEF REQUESTS

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION - DATE</u>
247	Contra Costa Co. Schools Education Assoc., CTA/NEA v. Contra Costa Co. Office of Education	SF-CE-1136-E	Refusal to negotiate health program	10/24/86	Withdrawn 10/29/86
248	Kathleen M. Turney v. Fremont USD Kathleen M. Turney v. Fremont Unified District Teachers Assn.	SF-CE-1141-E SF-CO-300-E	Denial of Access to mailboxes	11/6/86	Withdrawn 11/7/86
249	Shoreline USD v. Shoreline Ed. Assoc. CTA/NEA	SF-CO-303-E	One-day strike prior to declaring impasse	12/30/86	Withdrawn 1/8/87
250	Tony Petrich v. Riverside USD	LA-CE-2359	Discriminatory discharge	1/16/87	Denied 1/30/87
251	Sacramento City USD v. Sacramento City TA	S-CO-145	Strike	1/20/87	Granted 1/21/87 PERB Order IR-49 (2/17/87)
252	CAUSE v. State DPA (Dept. of Health)	S-CE-303-S	Reprisals against employees	1/26/87	Withdrawn 1/28/87
253	Compton USD v. Compton Ed. Assoc.	LA-CO-396 LA-CO-404 LA-CO-405	Strike	2/17/87	Granted 3/17/87 PERB Order IR-50 (3/17/87)

INJUNCTIVE RELIEF REQUESTS

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION - DATE</u>
254	Calif. Faculty Assoc. Trustees of the Ca. State University	LA-CE-185-H	Unilateral change re golden handshake	2/23/87	Withdrawn 3/4/87
255	Calif. Correctional Peace Officers Assoc. v. State of Calif. (DPA) Corrections	S-CE-309-S	Unilateral change in hiring procedures	3/16/87 Reactivated 3/18/87	Withdrawn 3/16/87 Withdrawn 3/26/87
256	Bonita USD v. Bonita Unified TA	LA-CO-408	Strike	3/17/87	Withdrawn 3/17/87
257	CAUSE v. DPA & Dept. of General Services	S-CE-313-S	Bad faith bargaining	3/23/87	Withdrawn 3/27/87
258	Bonita Unified Teachers Association, CTA/NEA v. Bonita USD	LA-CE-2551	Unilateral 5 percent wage increase	5/8/87	Withdrawn 5/18/87
259	Compton Community College Federation of Teachers v. Compton CCD	LA-CE-2272 LA-CE-2273 LA-CE-2393	Refusal to bargain	5/13/87	Withdrawn 5/18/87
260	Laguna Salada Unified School District v. Laguna Salada Ed. Assn., CTA/NEA	SF-CO-331	Strike	5/13/87	Granted in part 5/20/87

INJUNCTIVE RELIEF REQUESTS

<u>IR#</u>	<u>CASE NAME</u>	<u>CASE NO.</u>	<u>ALLEGATION</u>	<u>FILED</u>	<u>DISPOSITION - DATE</u>
261	Compton Community College Federation of Teachers v. Compton CCD	LA-CE-2570	Refusal to bargain	5/19/87	Denied 6/19/87
262	Laguna Salada USD v. Laguna Salada Ed. Assoc., CTA/NEA	SF-CO-331	Strike	6/4/87	Denied 6/5/87
263	Calif. State Employees Assn., SEIU Local 1000, AFL-CIO, CLE v. State (Cal. Maritime Academy)	SF-CE-82-S	Unlawful discharge	6/29/87	Denied 7/8/87
264	George Mrvichin v. Chino USD	LA-CE-2548 LA-CE-2571	Unilateral change in working conditions	6/29/87	Withdrawn 7/6/87

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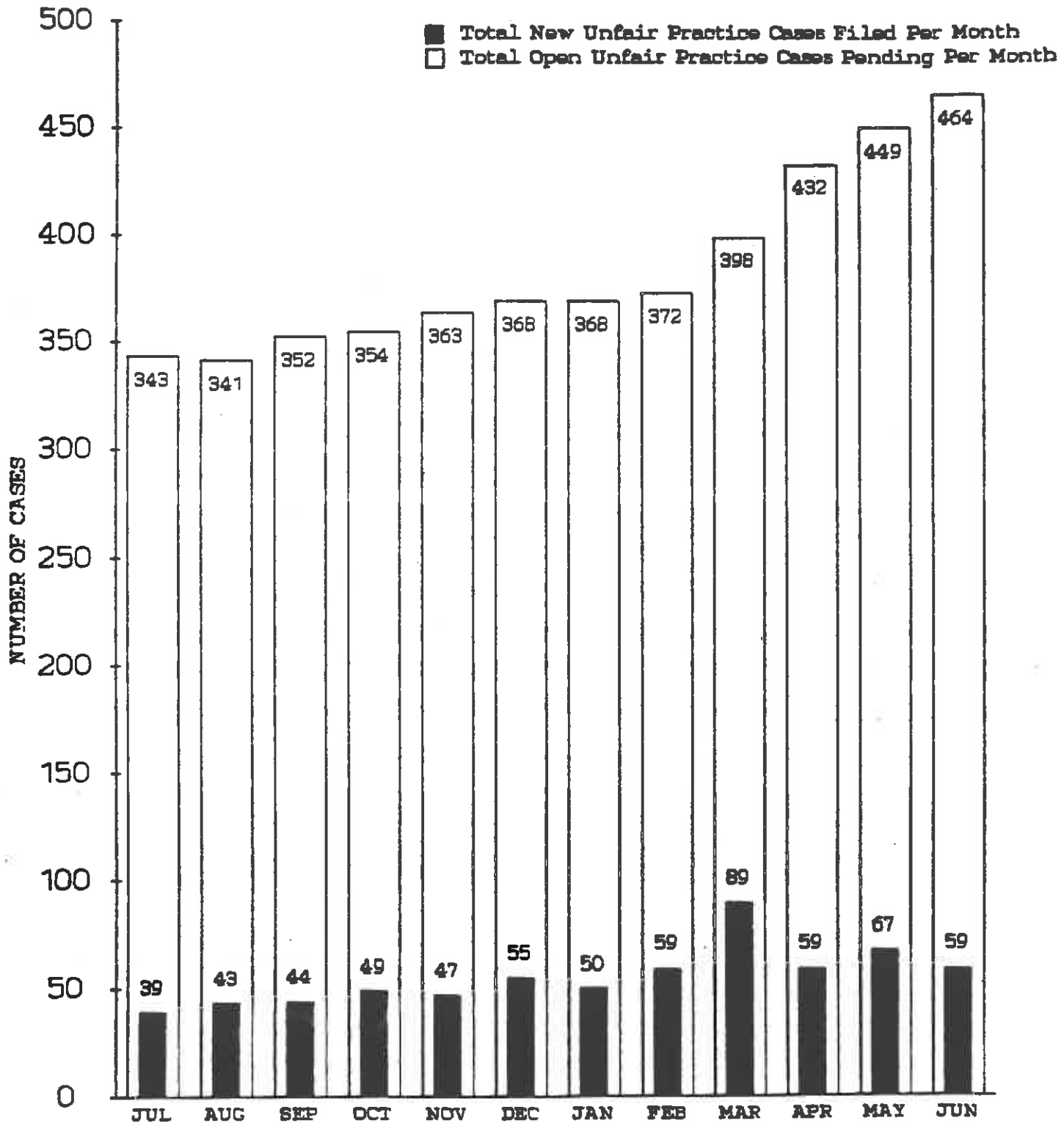
**TOTAL ACTIVITY
(EERA - HEERA - RALPH C. DILLS ACT)
REPRESENTATION CASE ACTIVITY
FISCAL YEAR 1986/87**

	<u>Active as of 07-1-86</u>	<u>Cases Filed</u>	<u>Total Active Cases</u>	<u>Closed Cases</u>	<u>Active as of 6-30-87</u>
REPRESENTATION PETITIONS	24	57	81	58	23
DECERTIFICATION PETITIONS	7	28	35	31	4
UNIT MODIFICATION PETITIONS	18	123	141	81	60
ORGANIZATIONAL SECURITY PETITIONS	2	19	21	21	0
AMENDED CERTIFICATIONS	1	10	11	11	0
MEDIATIONS	115	381	496	379	117
FACTFINDINGS	18	52	70	54	16
ARBITRATIONS	3	13	16	10	6
PUBLIC NOTICE COMPLAINTS	1	2	3	1	2
COMPLIANCES	22	25	47	33	14
FINANCIAL STATEMENTS	0	4	4	1	3
OTHER	0	1	1	1	0
TOTAL	211	715	926	681	245

TOTAL OF ALL ACTS

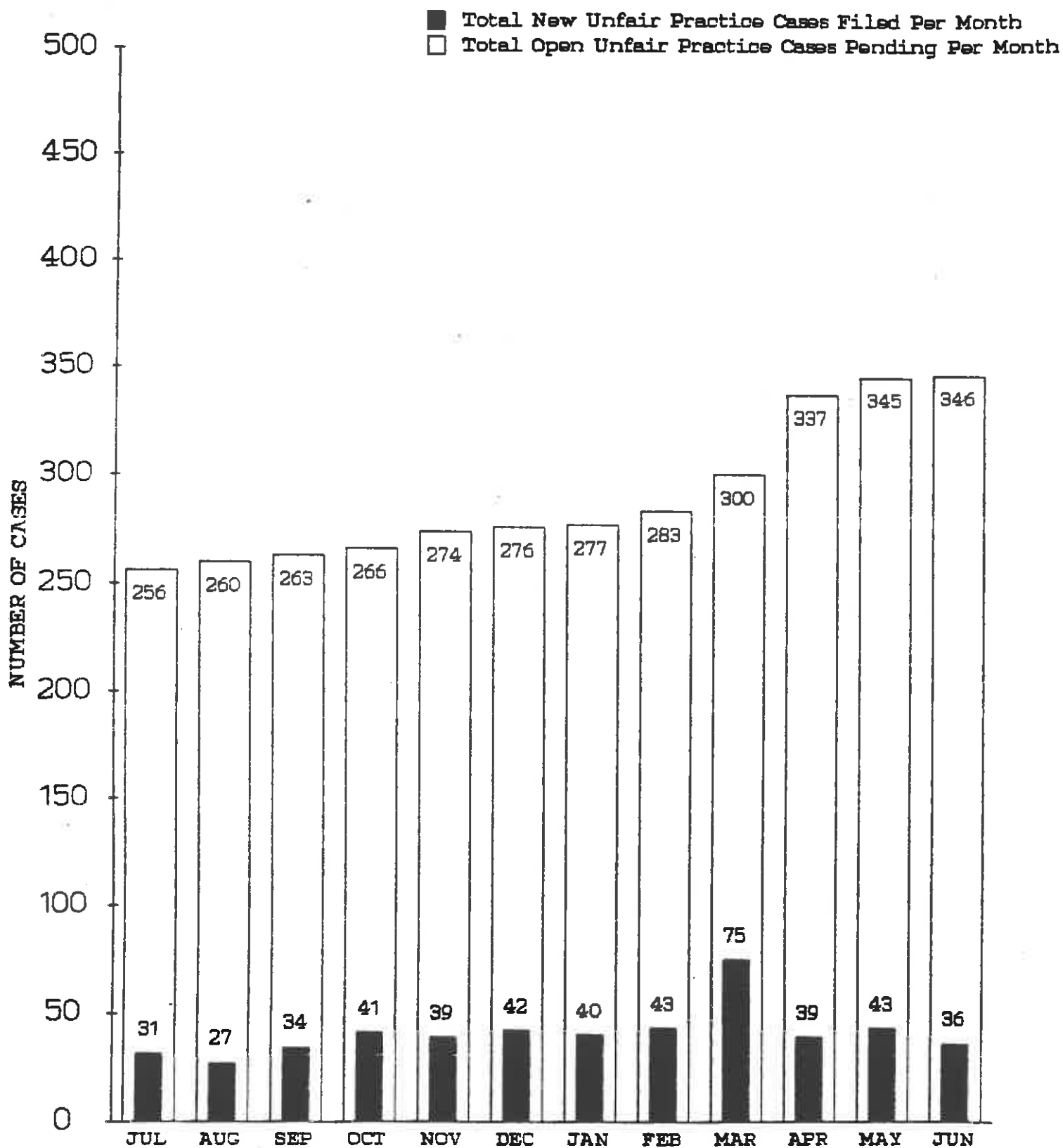
(CEERA - HEERA - RALPH C. DILLS ACT)

UNFAIR PRACTICE CASELOAD CHART - FISCAL YEAR 1986/87



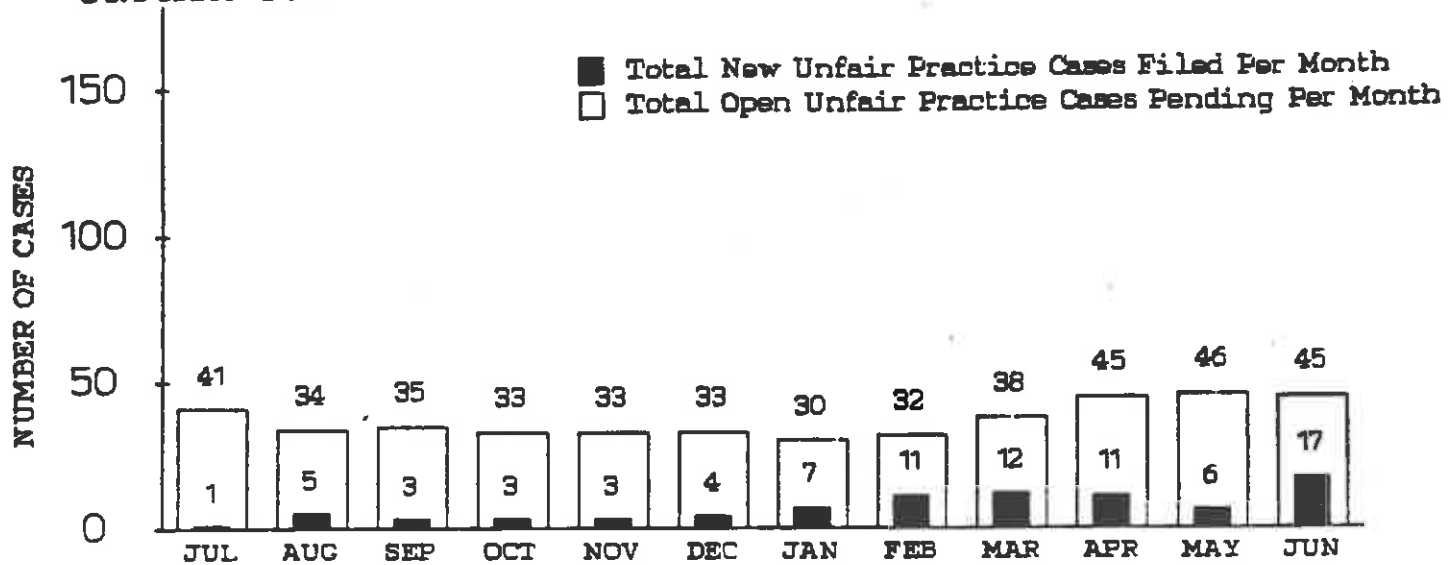
EERA

UNFAIR PRACTICE CASELOAD CHART - FISCAL YEAR 1986/87



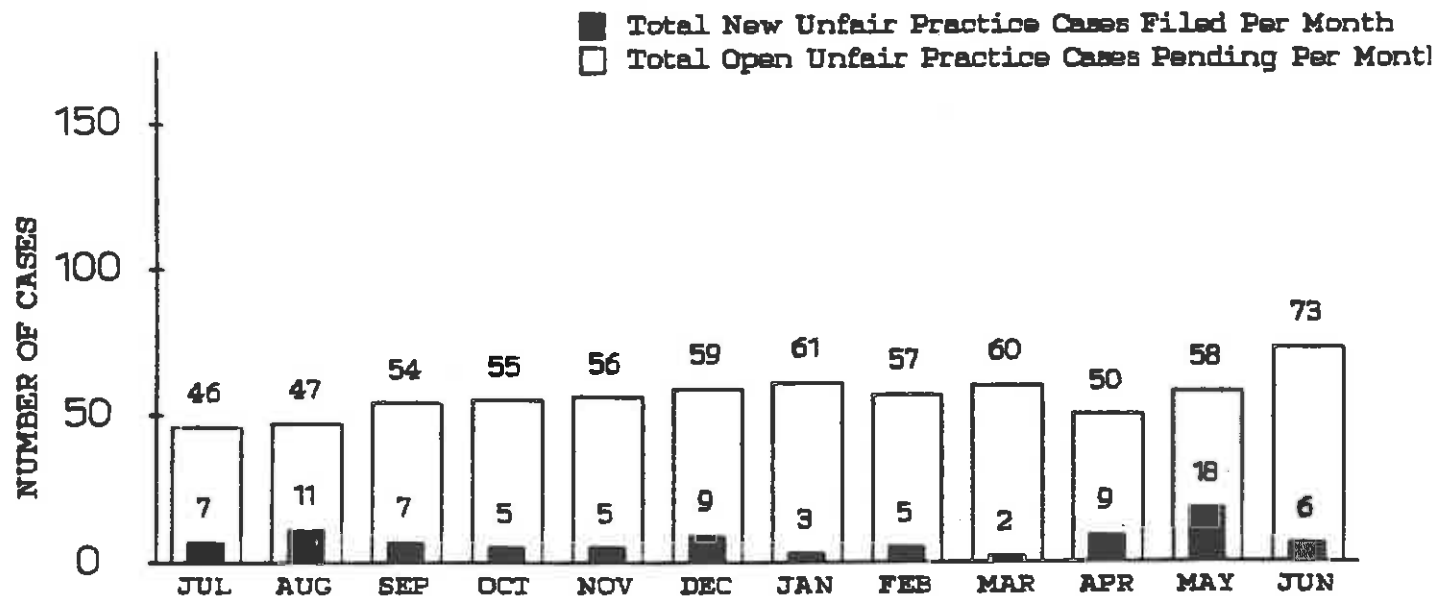
RALPH C. DILLS ACT

UNFAIR PRACTICE CASELOAD CHART - FISCAL YEAR 1986/87



HEERA

UNFAIR PRACTICE CASELOAD CHART - FISCAL YEAR 1986/87



**TOTAL FILINGS - BY ACT
UNFAIR PRACTICE CASES
FISCAL YEAR 1986/87**

CE's

	<u>EERA</u>	<u>HEERA</u>	<u>RALPH C. DILLS ACT</u>	<u>TOTAL</u>
JULY	28	6	1	35
AUGUST	23	11	3	37
SEPTEMBER	28	6	2	36
OCTOBER	31	5	3	39
NOVEMBER	27	5	2	34
DECEMBER	37	9	4	50
JANUARY	30	3	6	39
FEBRUARY	26	5	7	38
MARCH	57	2	10	69
APRIL	29	9	8	46
MAY	40	18	5	63
JUNE	31	4	11	46
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TOTAL	387	83	62	532

CO's

	<u>EERA</u>	<u>HEERA</u>	<u>RALPH C. DILLS ACT</u>	<u>TOTAL</u>
JULY	3	1	0	4
AUGUST	4	0	2	6
SEPTEMBER	6	1	1	8
OCTOBER	10	0	0	10
NOVEMBER	12	0	1	13
DECEMBER	5	0	0	5
JANUARY	10	0	1	11
FEBRUARY	17	0	4	21
MARCH	18	0	2	20
APRIL	10	0	3	13
MAY	3	0	1	4
JUNE	5	2	6	13
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TOTAL	103	4	21	128

GRAND TOTAL	490	87	83	660
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**EERA - HEERA - RALPH C. DILLS ACT
UNFAIR PRACTICE CASE ACTIVITY
FISCAL YEAR 1986/87**

	<u>Active as of 07-1-86</u>	<u>Cases Filed</u>	<u>Closed Cases</u>	<u>Active as of 6-30-87</u>
<u>EERA</u>				
CE	198	387	326	259
<u>CO</u>	<u>58</u>	<u>103</u>	<u>86</u>	<u>75</u>
TOTAL	256	490	412	334
<u>HEERA</u>				
CE	39	83	51	71
<u>CO</u>	<u>7</u>	<u>4</u>	<u>6</u>	<u>5</u>
TOTAL	46	87	57	76
<u>RALPH C. DILLS ACT</u>				
CE	24	62	49	37
<u>CO</u>	<u>17</u>	<u>21</u>	<u>19</u>	<u>19</u>
TOTAL	41	83	68	56
<u>TOTAL</u>				
CE	261	532	426	367
<u>CO</u>	<u>82</u>	<u>128</u>	<u>111</u>	<u>99</u>
GRAND TOTAL	343	660	537	466

Note: CE - Charges against employers
CO - Charges against employee organizations

ABBREVIATIONS TO ELECTIONS HELD

AFSCME	American Federation of State, County and Municipal Employees
AFT	American Federation of Teachers
AVCFA	Antelope Valley College Faculty Association
AVCFOT	Antelope Valley College Federation of Teachers
BHEA	Beverly Hills Education Association
CCE	Council of Classified Employees
CFOEA	Coast Federation of Employees Association
CFT	California Federation of Teachers
CSEA	California School Employees Association
KUHSDEA	Kern Union High School District Faculty Association
LRCFOT	Los Rios College Federation of Teachers
LRTA	Los Rios Teachers Association
MCOE CLASS	Mendocino County Office of Education Classified Employees
NEA	National Education Association
OFOT	Oxnard Federation of Teachers
SBCCIA	Santa Barbara City College Instructors Association
SCENT	
SDCCTA	San Diego City College Teachers Association
SEIU	Service Employees International Union
SVFOT	Salinas Valley Federation of Teachers
SVTA	Salinas Valley Teachers Association

EERA ELECTIONS HELD - FISCAL YEAR 1986/87

1986/87 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
10/07/86	S -R -806E	NATOMAS UnESD	CLS	46	33	CSEA-25			8	0	0	C/REP
10/28/86	LA-R -913E	VINELAND ESD	CLS	32	32	CSEA-22			9	1	0	C/REP
12/05/86	LA-R -915E	SANTA BARBARA CCD	CERT	490	291	SBCCIA-250			37	4	1	C/REP
02/11/87	LA-R -921E	SAN DIEGO CCD	CLS	97	60	SEIU-58			1	1	0	C/REP
02/26/87	LA-R -922E	NORRIS ESD	CLS	28	21	CSEA-17			4	0	0	C/REP
04/01/87	S -R -826E	HORN BROOK ESD	CLS	8	8	CSEA-5			3	0	0	C/REP
04/07/87	S -R -822E	ATWATER ESD	CLS	82	81	See NO REP	CSEA-28		53	0	0	C/REP
04/29/87	S -R -821E	EMPIRE UnESD	CLS	117	107	See NO REP	CSEA-37		70	0	1	C/REP
05/13/87	S -R -828E	DUCOR UnESD	CLS	10	9	CSEA-9			0	0	0	C/REP
05/15/87	LA-R -923E	KERN UnHSD	CERT	22	19	KUHSDF- CTA/NEA-16			3	0	0	C/REP
05/20/87	LA-R -925E	SANTA CLARITA CCD	CLS	43	25	CSEA-19			6	0	1	C/REP
05/27/87	S -R -829E	GERBER UnESD	CLS	31	30	See NO REP	CSEA-11		19	0	0	C/REP
10/07/86	LA-R -909E		CLS	82	51	BHEA/NEA-45	CSEA-0		6	0	0	C/REP
10/16/86	LA-I -102E	BEVERLY HILLS USD										
	S -R -813E		CERT	48	44	LCPOT- CFT/AFT-31	CTA/NEA-7		6	0	0	C/REP
	S -I -105E	LASSEN CCD										
10/24/86	LA-R -901E		CERT	270	213	AVCFA/ CTA/NEA-94	AVCFOT- CFT/AFT-86		33	0	0	C/REP
	LA-I -101E	ANTELOPE VALLEY CCD										
12/03/86	LA-R -901E		CERT	276	182	AVCFA/ CTA/NEA-100	AVCFOT- CFT/AFT-82		0	0	1	C/RO
	LA-I -101E	ANTELOPE VALLEY CCD										
10/02/86	LA-D -199E	SANTA MONICA-MALIBU USD	CLS	153	119	SEIU-88	CSEA-26		4	1	0	D/REP
10/23/86	SF-D -158E	SALINAS UnHSD	CERT	396	378	SVFOT/AFT-225	SVTA/CTA-151		1	1	0	D/REP
10/24/86	SF-D -155E	MENDOCINO COE	CLS	125	75	SCENT/CSEA-43	MCOE CLASS-30		2	0	1	D/REP
01/27/87	SF-D -159E	ALUM ROCK UnESD	CLS	220	195	TEAMSTERS-124	CSEA-67		3	1	0	C/REP
02/04/87	S -D -103E	CARUTHERS UnESD	CLS	13	12	CSEA-10			2	0	0	D/REP
02/27/87	LA-D -197E	COAST CCD	CERT	1326	464	Coast CGD/ CTA-239	GFOEA/ CFT/AFT-166		58	1	8	D/REP
						GCE/AFT-156	CSEA-8		7	8	5	D/REP
03/10/87	LA-D -201E	PALOMAR CCD	CLS	336	179							

EERA ELECTIONS HELD - FISCAL YEAR 1986/87

1986/87 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
05/13/87	LA-D -204E	SADDLEBACK VALLEY USD	CLS	586	410	CSEA-210	AFSCME-193		6	1	2	D/REP
05/19/87	LA-D -206E	LAWNDALE ESD	CLS	215	120	AFT-63	CSEA-54		3	0	1	D/REP
05/20/87	LA-D -210E	SAN DIEGO CCD	CERT	1502	635	AFT-335	SDCCTA/CTA-276		14	10	9	D/REP
05/20/87	LA-D -208E	SANTA CLARITA CCD	CLS	20	19	CSEA-12	TEAMSTERS-6		1	0	0	C/REP
05/20/87	LA-D -209E	SANTA CLARITA CCD	CLS	2	2	CSEA-2	TEAMSTERS-0		0	0	0	C/REP
05/27/87	LA-D -207E	INGLEWOOD USD	CLS	706	376	CSEA-204	CCE/AFT-166		2	4	2	C/REP
06/03/87	LA-D -211E	PUPIL TRANSPORTATION CO-OP	CLS	69	68	CSEA-41	AFSCME-25		1	1	0	D/REP
06/04/87	S -D -108E	LOS RIOS CCD	CERT	1183	972	LRCFOT-632	LRTA/CTA-313		25	2	7	D/REP
06/04/87	LA-D -212E	COACHELLA VALLEY USD	CERT	390	332	AFT-222	CTA-108		1	1	1	D/REP
06/05/87	LA-D -205E	TORRANCE USD	CLS	290	206	SEIU-134	CSEA-66		5	1	0	C/REP
06/09/87	S -D -104E	WEST FRESNO ESD	CLS	28	25	CSEA-24	AFSCME-0		0	1	2	D/REP
06/11/87	S -D -105E	ELK GROVE USD	CLS	277	168	AFSCME-126	CSEA-39		3	0	1	D/REP
06/25/87	SF-D -156E	PERALTA CCD	CERT	10	8	CTA-7	AFT-1		0	0	0	D/REP
06/29/87	LA-D -200E	SANTA MONICA-MALIBU USD	CLS	195	114	SEIU-93	CSEA-10		11	0	1	D/REP
10/21/86	SF-OS-123E	KONOCTI USD	CERT	127	114		OS/YES-81	OS/NO-33	0	0	0	C/REP
10/23/86	S -OS-62E	RIVERBANK ESD	CERT	65	42		OS/YES-39	OS/NO-3	0	0	1	C/REP
11/18/86	LA-OS-91E	BELLFLOWER USD	CLS	485	197		OS/YES-123	OS/NO-74	0	0	0	C/REP
12/02/86	LA-OS-93E	FALLBROOK UnHSD	CERT	97	60		OS/YES-48	OS/NO-12	0	0	0	C/REP
12/11/86	LA-OS-92E	EL MONTE UnHSD	CLS	332	158		OS/YES-132	OS/NO-32	0	0	1	C/REP
12/16/86	LA-OS-94E	TEMPLE CITY USD	CERT	195	145		OS/YES-112	OS/NO-33	0	0	0	C/REP
01/22/87	LA-OS-96E	MOUNTAIN VIEW ESD	CERT	341	131		OS/YES-116	OS/NO-15	0	0	0	C/REP
03/03/87	SF-OS-126E	ALAMEDA CITY USD	CERT	440	316		OS/YES-229	OS/NO-87	0	0	0	C/REP
03/03/87	LA-OS-97E	SAN BERNARDINO CITY USD	CERT	1494	802		OS/YES-564	OS/NO-220	0	18	0	C/REP
03/25/87	SF-OS-125E	MOUNT DIABLO USD	CLS	366	237		OS/YES-144	OS/NO-93	0	0	2	C/REP
05/07/87	SF-OS-128E	HEALDSBURG UnHSD	CLS	60	35		OS/YES-30	OS/NO-5	0	0	0	C/REP
05/07/87	SF-OS-127E	HEALDSBURG UnESD	CLS	47	25		OS/YES-23	OS/NO-2	0	0	0	C/REP
05/21/87	SF-OS-129E	JOHN SWETT USD	CERT	100	61		OS/YES-43	OS/NO-18	0	0	0	C/REP
05/21/87	LA-OS-98E	CULVER CITY USD	CERT	269	234		OS/YES-128	OS/NO-106	0	0	1	C/REP
06/19/87	S -OS-66E	REEF-SUNSET USD	CERT	85	66		OS/YES-43	OS/NO-0	23	0	0	C/REP
09/10/86	S -OS-61E-R	MERCED CITY ESD	CLS	125	104		OSR/YES-16	OSR/NO-88	0	0	2	D/REP
03/10/87	S -OS-64E-R	MERCED CITY ESD	CLS	316	245		OSR/YES-117	OSR/NO-128	0	0	1	D/REP

EEEA ELECTIONS HELD - FISCAL YEAR 1986/87

1986/87 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
10/02/86	LA-UM-382E	VICTOR VALLEY UnHSD	CLS	36	20	CSEA-20			0	0	0	C/REP
02/18/87	LA-UM-409E	OXNARD UnHSD	CERT	36	36	OPOT-19			17	0	0	C/REP
03/09/87	SF-UM-398E	LAS LOMITAS ESD	CLS	13	7		UM/YES-6	UM/NO-1	0	0	0	C/REP

HEERA ELECTIONS HELD - FISCAL YEAR 1986/87

1986/87 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
12/05/86	SF-R -668H	University of California	10	182	176	See NO REP	Local 1276-52		123	1	1	D/REP

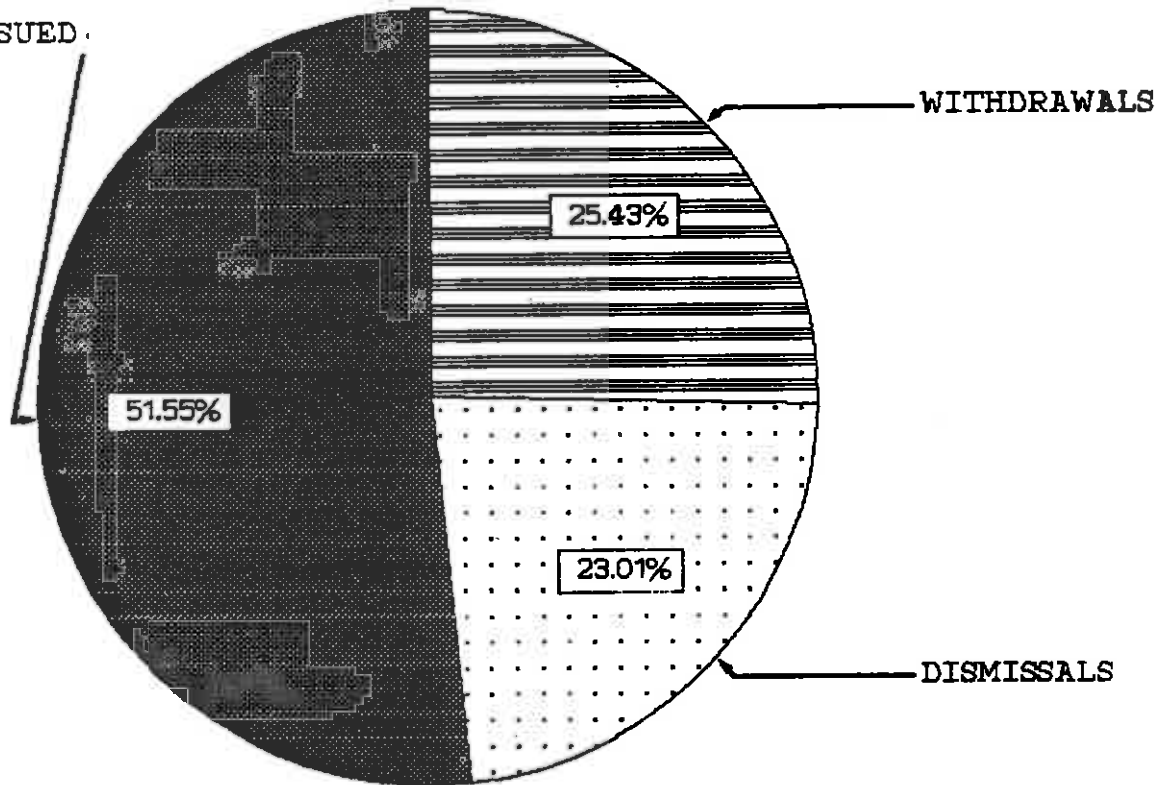
RALPH C. DILLS ACT ELECTIONS HELD - FISCAL YEAR 1986/87

1986/87 DATE	CASE NUMBER(S)	EMPLOYER NAME	UNIT TYPE	UNIT SIZE	VALID VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORT (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
09/10/86	S -OS-61S-R	State of California	18	7544	2383		OSR/YES-709	OSR/NO-1674	0	0	54	D/REP

**REGIONAL ATTORNEY STAFF ACTIVITY
FISCAL YEAR 1986/87**

	<u>EERA</u>	<u>HEERA</u>	<u>RALPH C. DILLS ACT</u>	<u>TOTAL</u>
COMPLAINTS ISSUED	225	51	22	298
DISMISSALS	82	21	30	133
WITHDRAWALS	118	8	21	147

COMPLAINTS ISSUED.



**ADMINISTRATIVE LAW JUDGE ACTIVITY
FISCAL YEAR 1986/87**

	<u>EERA</u>	<u>HEERA</u>	<u>RALPH C. DILLS ACT</u>	<u>TOTAL</u>
PROPOSED DECISIONS ISSUED	44	12	4	60
- Appeals	23	7	2	32
- Final Decisions	21	5	2	28
WITHDRAWALS	186	22	14	222
DISMISSALS	4	1	0	5
INFORMAL SETTLEMENT CONFERENCES	233	40	20	293
HEARINGS HELD	61	18	5	84

